

be initially determined a subject employer on the basis of covered employment performed more than four years prior to the year in which such determination is made, unless the commissioner finds that the records of such employment experience were fraudulently concealed or withheld for the purpose of escaping liability under said sections;

(14) Any employing unit for which service in employment, as defined in subdivision 12, clause (7), is performed.

Approved May 19, 1973.

CHAPTER 432—S.F.No.1954

[Not Coded]

An act relating to the city of St. Cloud; providing for the continuance of a retirement program for police officers employed by the city.

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

Section 1. **ST. CLOUD, CITY OF; POLICE RETIREMENT; DEFINITIONS.** Subdivision 1. For the purposes of this act, the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Member" means a policeman, policewoman, police matron, radio engineer, clerk, or other person duly appointed and regularly entered on the police payroll and on active duty.

Subd. 3. "Unit" means that fractional part of the monthly salary of a top grade patrolman for the second month of the previous fiscal year as determined in the articles of incorporation of the association which fractional part shall never be less than one-seventy-fifth of such monthly salary.

Subd. 4. "Disability" means a physical or mental incapacity of a member to perform the duties of his position in the service of the police department.

Subd. 5. "Pensioner" means a former member who has qualified for and is receiving a pension.

Subd. 6. "Deferred pensioner" means a member who has completed not less than 20 years of service and retires before reaching the age of 50 years who is entitled to receive a pension

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when he attains the age of 50 years, upon a written request therefor.

Subd. 7. "City" means the city of St. Cloud.

Sec. 2. POLICEMEN'S RELIEF ASSOCIATION.

Subdivision 1. The members of the police department of the city shall organize a policemen's relief association or maintain the relief association now existing. This association shall create, maintain, and administer a policemen's pension fund for the benefit of its members, their widows, and their children.

Subd. 2. The association shall become incorporated. It shall be governed by a board of eight members. The mayor, chief of police, and treasurer of the city shall be ex officio members. The other members shall be elected by the members of the association. Those elected to the first board shall be elected for terms of one, two, three, four, five years respectively; thereafter election shall be for a term of five years. Each elective member shall hold office until his successor is elected and has qualified. Any vacancy in the office of an elective member shall be filled by a special election called for that purpose. Any member so elected shall hold office for the balance of the term for which his predecessor was elected.

Subd. 3. The affairs of the association shall be regulated by its articles of incorporation and bylaws.

Subd. 4. The association shall establish a policemen's pension fund or continue to maintain the police pension fund now existing in the city and shall have the management and control of any such fund.

Sec. 3. SOURCES OF FUNDS. Subdivision 1. Funds of the association shall be derived from the following sources:

- (a) Gifts made for such purpose.
- (b) Rewards received by members.
- (c) Moneys coming into the hands of members remaining unclaimed for six months.
- (d) Proceeds from sales of property coming into the hands of members and remaining unclaimed for three months, which property shall be sold by the chief of police.
- (e) Contributions of members in an amount equal to six percent of the monthly salary of a top grade patrolman, which shall be increased by one half of one percent effective January 1, 1974 and again in identical increments on January 1 of each year thereafter until such time as the member's percentage of contribu-

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tion shall equal that of a member of the public employees police and fire fund, after which time the percentage of contribution shall remain equal to that of a member of the public employees police and fire fund.

(f) Moneys now in any police fund continuing to be maintained by the association and all interest thereon or gains therefrom.

(g) Any other income allowed by law.

Subd. 2. Any surplus remaining in these funds at the close of any fiscal year shall continue therein. Notwithstanding the provisions of clause (f) of subdivision 1, the balance in the fund may be reduced proportionately as the number of members of the association and pensioners declines below the number of such members and pensioners on July 1, 1973. Any balance remaining in the fund upon the death of the last member of the association or spouse or eligible beneficiary thereof shall be turned over to the city treasury for general purposes.

Sec. 4. **USES OF PENSION FUND.** The policemen's pension fund shall be used only for the payment of:

(a) service, disability, or dependency pensions;

(b) salaries, in an amount not in excess of \$1,000 per year;

(c) expenses of officers and employees of the association in connection with the protection of the fund; and

(d) all expenses of operating and maintaining the association.

Sec. 5. **PENSIONS, LIMITATIONS.** Subdivision 1. The association shall grant pensions payable from the policemen's pension fund in monthly installments, in the manner and for the following purposes:

(1) Any member of the age of 50 years or more, who performs duty as a member of the police department of the city for 20 years or more, upon his written application after retiring from such duty, shall be paid monthly during his lifetime a pension equal to 35 units and an additional unit for each year of such service in excess of 20 years, but not to exceed 42 units.

(2) Any member who performs duty as a member of the police department of the city for 20 years or more who retires from such duty before he attains the age of 50 years, upon his written application after reaching the age of 50 years shall be paid monthly during his lifetime a pension equal to 35 units and an additional unit for each year of such service in excess of 20 years, but not to exceed 40 units.

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(3) Any member who, after ten years service but with less than 20 years service with the police department of the city, becomes superannuated so as to be permanently unable to perform his duties, shall be paid monthly during his lifetime a pension equal to 16 units and an additional two units for each completed year of such service over ten years and less than 20 years.

(4) Any member not eligible for a service pension who, while a member of the police department of the city, becomes diseased or sustains an injury which permanently unfits him for the performance of police duties, shall be paid monthly during his lifetime a pension equal to 36 units while so disabled.

Subd. 2. If a member of the police department of the city is separated from the service under such circumstances that no pension benefits are payable to him or to his widow or to his children, the treasurer of the city shall return to him 75 percent of the amount he has paid in without interest. In the event the member is reinstated to police duty all moneys paid him shall be returned to the pension fund within six months from the date of the reinstatement. Failure to do so relieves the association from any liability as to prior years of service credit as to reinstatement date. In case of the death of the member any such sums shall be paid to his heirs, executors, or administrators.

Subd. 3. In the case of any applicant for a pension pursuant to subdivision 1, clauses (1), (2), or (3), who, following admission to membership in the association has served in the military forces of the United States in any war or national defense emergency subsequent to January 1, 1940, and thereafter returned honorably discharged from such service and resumed membership in the association, the period that the applicant spent in such military service shall be counted in computing period of service required for benefits under this section. During such period of military service or defense emergency service, any such person is not considered a member of the association and is not entitled to any pension provided by subdivision 1, clauses (3) and (4). If the member does not return to his employment in the police department of the city within one year from the time peace is declared or within one year from the termination of the period of emergency, whichever is the later, the provisions of this subdivision shall not apply.

Subd. 4. No member shall be awarded, granted, or paid a pension pursuant to subdivision 1, clauses (3) and (4), except upon the certificate of two or more physicians or surgeons chosen by the governing board. This certificate shall set forth the cause, nature, and extent of the disability, disease, or injury of the member. No member shall be awarded, granted, or paid a pension pursuant to subdivision 1, clause (4), unless the certificate states the disability, disease, or injury. Each such certificate shall be filed with the association.

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Subd. 5. A member who has been finally convicted of a felony is not entitled to any pension.

Sec. 6. **BENEFITS.** Subdivision 1. The association shall grant pensions or benefits payable from the policemen's pension fund to any member or to any widow or to any child under 18 years of age or any member from the time and for the following purposes:

When a service pensioner, disability pensioner, or deferred pensioner, or an active member of a relief association dies, leaving

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

(2) a child or children, who were living while the deceased was on the payroll of the police department or born within ten months after the decedent was withdrawn from such payroll, the widow and child, or children, shall be entitled to a pension, or pensions, as follows:

(a) To the widow, a pension of 18 units per month, for her natural life; but if she remarry the pension shall cease as of the date of the remarriage.

(b) To each child, a pension of six units per month until the child reaches the age of 18 years.

The total pensions hereunder for the widow and children of a deceased member shall not exceed 36 units per month.

Subd. 2. A widow or child under 18 years of age of any member convicted of a felony shall not be deprived of a pension by reason of the conviction unless the widow or child was a party to the commission of the felony. When such member is receiving a pension at the time of his conviction, his wife or children under 18 years of age who were not parties to the commission of the felony shall receive the pension provided for herein, in the event of the member's death.

Subd. 3. Any member who becomes disabled from performing his duties as a member of the police department of the city by reason of sickness or accident, if off the payroll of the police department, having exhausted all sick leave and other benefits due him, is entitled to receive from the association during his disability such benefits as the bylaws of the association provide, but such benefits shall not extend beyond a six-months period. The bylaws may provide that such a member shall have completed a minimum

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number of years of service in order to be entitled to such benefits. Before any such benefits shall be paid or allowed, notice of the disability and application for benefits on account thereof shall be made to the secretary of the association within 90 days after such sickness or disability.

Subd. 4. All retired members shall be eligible for the same group health insurance coverage as is provided by the city for active police officers. If a retired member requests coverage under the group hospitalization insurance plan for city employees, the policemen's pension fund shall pay to the city on behalf of the retired member an amount equal to the premium for the same coverage for an active police officer. The retired member shall pay for coverage for eligible dependents the same amount as an active police officer pays for such coverage. Benefits provided by this subdivision shall terminate upon the retired member's attaining the age of 65 years.

Sec. 7. ACTIONS; EXEMPTION FROM PROCESS; PRIOR RIGHTS. Subdivision 1. No person shall sue for any benefits provided in section 5, subdivision 1, clauses (3) or (4), unless he shall post a bond in a sufficient amount to defray the cost to the governing board of defending the action. In the event the governing board is sustained the portion of the bond necessary to defray these costs shall be forfeited.

Subd. 2. Any payment made by the association under any provision of this act is exempt from any legal process. No person entitled to any such payment may assign the same. The association may not recognize any assignment or pay any sum on account thereof.

Subd. 3. Any member of the association who received a pension for the month of June, 1954, and who is eligible to receive a pension thereafter shall receive a pension each month thereafter, during the time he is so eligible to receive a pension, equal to not less than 32 units nor more than 35 units.

Sec. 8. POWERS OF CITY OFFICIALS LIMITED. Subdivision 1. When the governing board of the policemen's relief association determines what is necessary to adequately protect, maintain, and administer the policemen's pension fund created by subdivision 1 of section 2, neither the governing body of the city nor any official of the city may thereafter deny adequate representation therefor.

Subd. 2. Any duties performed by any member of such association under any provision of subdivision 1, are deemed to be police duties.

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Sec. 9. **P.E.R.A. MEMBERSHIP.** Subdivision 1. Notwithstanding any provision of this act or any other general or special law to the contrary, all police officers first employed by the city on and after the effective date of this act shall be members of the public employees police and fire fund operated pursuant to Minnesota Statutes, Sections 353.63 to 353.68. Such persons shall not be members of the policemen's relief association and pension fund of the city continued and maintained pursuant to this act nor be subject to any of the laws relating thereto.

Subd. 2. Any police officer first employed by the city prior to the effective date of this act may, within six months next following that date, elect to become a member of the public employees police and fire fund. In the event of such election, which shall be final, the officer shall be entitled to a refund of contributions to the policemen's retirement fund in the same manner and amount as provided for a member separated from service pursuant to subdivision 2 of section 5, and shall thereafter be subject exclusively to the law governing the public employees police and fire fund in lieu of the retirement program and fund provided by this act.

Sec. 10. **GUIDELINES ACT NOT AFFECTED.** No provision of this act shall be construed as exempting, abridging, repealing or amending compliance with the provisions of the police and firemen's relief association guidelines act of 1969, as amended, except as herein specifically provided. From and after the effective date of this act, Minnesota Statutes, Sections 423.801 to 423.815 shall not apply to the policemen's relief association of the city of St. Cloud.

Sec. 11. This act is effective upon approval by the city council of the city of St. Cloud and upon compliance with Minnesota Statutes, Section 645.021.

Approved May 19, 1973.

CHAPTER 433—S.F.No.925

[Not Coded]

An act relating to the city of Chisholm; placing new employees of the department of public safety under the public employees police and fire fund.

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

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