

CHAPTER 562-H.F.No.1858

[Coded in Part]

An act relating to retirement; clarifying various ambiguous retirement provisions; removing various obsolete gender references; amending Minnesota Statutes 1976, Sections 352B.05; 352B.06; 352B.14, Subdivisions 3 and 4; 352B.26, Subdivisions 2 and 3; 352B.28; 352D.05, Subdivision 3; 423.37; 423.371, Subdivision 2; 423.377; 423.38; 423.381; 423.387; 423.48; 423.51; 423.52; 423.58; 423.802, Subdivision 2; 423.810, Subdivisions 1 and 2; 424.16; 424.17; 424.24; 424.29; 424.31; Chapter 422A, by adding a section; Minnesota Statutes, 1977 Supplement, Sections 69.772, Subdivision 2; 352B.08, Subdivision 2; 422A.09, Subdivision 3; and 422A.33, Subdivision 3; Laws 1969, Chapter 1088, Section 4, Subdivision 4; and Laws 1977, Chapter 61, Section 5; repealing Minnesota Statutes 1976, Sections 423.22 to 423.36; and 425.01 to 425.09.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes, 1977 Supplement, Section 69.772, Subdivision 2, is amended to read:

Subd. 2. For every firefighters' relief association which allows a service pension when a retiring member meets the minimum requirements of section 69.06 and which requires service credit for a period of service less than 20 years of active service, the following table shall be used to determine the liability of the special pension fund of the firemen's relief association relative to each active or deferred member of the fund, calculated individually:

Cumulative Year	Accrued Liability
.....
1	\$35
2	71
3	110
4	150
5	192
6	236
7	283
8	332
9	383
10	437
11	494
12	553
13	616
14	681
15	750
16 and thereafter	50 additional per year

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For every firefighters' relief association which allows a service pension when a retiring member meets the minimum requirements of section 69.06 and which requires service credit for a period of service of at least 20 years of active service, the following table shall be used to determine the liability of the special pension fund of the firefighters' relief association relative to each active or deferred member of the fund, calculated individually:

<u>Cumulative</u> <u>Year</u>	<u>Accrued</u> <u>Liability</u>
<u>1</u>	<u>\$30</u>
<u>2</u>	<u>62</u>
<u>3</u>	<u>95</u>
<u>4</u>	<u>130</u>
<u>5</u>	<u>167</u>
<u>6</u>	<u>205</u>
<u>7</u>	<u>246</u>
<u>8</u>	<u>288</u>
<u>9</u>	<u>333</u>
<u>10</u>	<u>380</u>
<u>11</u>	<u>429</u>
<u>12</u>	<u>481</u>
<u>13</u>	<u>535</u>
<u>14</u>	<u>592</u>
<u>15</u>	<u>652</u>
<u>16</u>	<u>714</u>
<u>17</u>	<u>780</u>
<u>18</u>	<u>849</u>
<u>19</u>	<u>922</u>
<u>20</u>	<u>1000</u>
<u>21 and thereafter</u>	<u>50 additional</u> <u>per year</u>

The accrued liability reflected in dollar amounts after each cumulative year of service, is the total liability earned to date for each ~~\$1,000~~ \$50 of lump sum retirement benefit per year of service which will be payable to a member after age 50 and 15 after obtaining the minimum years of service in accordance with the state statutes and bylaws of the association. The special fund accrued liability for each individual member shall be that multiple or portion of the amounts listed in the table, that the actual benefits provided by statute and bylaw bear to ~~\$1,000~~ \$50 of lump sum retirement benefit per year of service. The total accrued liability of the special fund to the date of calculation shall be the sum of the accrued liability of the special fund as regards to each active member.

Sec. 2. Minnesota Statutes 1976, Section 352B.05, is amended to read:

352B.05 INVESTMENTS. The state board of investment is hereby authorized to invest and reinvest such funds of the association as in the judgment of the ~~officers of this association~~ executive director of the Minnesota state retirement system are not needed for immediate purposes, in such securities as are duly authorized or legal investments for the

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Minnesota state retirement system, and shall have authority to sell, convey, and exchange such securities and invest and reinvest the funds when it deems it desirable to do so, and shall sell securities upon request from the ~~officers of the association~~ executive director when ~~such officers determine~~ the executive director determines funds are needed for its purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities for the Minnesota state retirement system shall apply to the accounting, purchase and sale of securities for the highway patrolmen's retirement fund.

Sec. 3. Minnesota Statutes 1976, Section 352B.06, is amended to read:

352B.06 RETIREMENT FUND. There is hereby created the highway patrolmen's retirement fund. The fund shall consist of all moneys credited to the fund on May 8, 1973, including all moneys and assets heretofore transferred to the fund from the state police officers' retirement fund, all salary deductions from members and all moneys paid from state funds by department heads in accordance with section 352B.02, and any other moneys received by the association in the form of donations, gifts, bequests, appropriations, or otherwise. The legislative auditor shall audit the fund and the ~~officers of the fund~~ executive director of the Minnesota state retirement system shall have made an actuarial study of the fund in accordance with chapter 356, the cost of which shall be borne by the fund.

Sec. 4. Minnesota Statutes, 1977 Supplement, Section 352B.08, Subdivision 2, is amended to read:

Subd. 2. The annuity shall be paid in monthly installments equal to that portion of the average monthly salary of the member multiplied by two and one-half percent for each year and pro rata for completed months of service not exceeding 20 years and two percent for each year and pro rata for completed months of service in excess of 20 years. Effective June 1, 1973, "average monthly salary" shall mean the average of the monthly salaries for the five high years of service as a member. The monthly salary for the period prior to July 2, 1969 shall be deemed to be \$600. In lieu of the life annuity herein provided, the member or former member with 10 years or more of service may elect a joint and survivor annuity, payable to the surviving spouse for life, adjusted to the actuarial equivalent value of such life annuity. The joint and survivor annuity elected by a member may also provide that the elected annuity be reinstated to the life annuity herein provided, if after drawing the elected joint and survivor annuity, the spouse dies prior to the death of the member. This reinstatement shall not be retroactive but shall be in effect for the first full month subsequent to the death of the surviving spouse. This additional joint and survivor option with reinstatement clause shall be adjusted to the actuarial equivalent value of a regular life annuity. The member ~~or~~ with ten or more years of service or the former member with 10 or more years of allowable service credit is deemed to have elected a 100 percent joint and survivor annuity payable only on or after the member's 55th birthdate.

Sec. 5. Minnesota Statutes 1976, Section 352B.14, Subdivision 3, is amended to read:

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Subd. 3. Except as provided in subdivision 4, every widow surviving spouse or dependent child of a deceased former member entitled to an annuity or benefit shall receive such annuity or benefit computed on the basis of the law in effect on the date said member or former member died.

Sec. 6. Minnesota Statutes 1976, Section 352B.14, Subdivision 4, is amended to read:

Subd. 4. Any member defined in section 352B.01, subdivision 2, clause (a) who has retired and began collecting a retirement annuity prior to the effective date of Laws 1961, Chapter 493, or any widow surviving spouse or child who began collecting an annuity or benefit prior to the effective date of Laws 1961, Chapter 493, shall continue to receive such annuity or benefit in the amount and subject to the conditions specified in the law prior to the effective date of Laws 1961, Chapter 493.

Sec. 7. Minnesota Statutes 1976, Section 352B.26, Subdivision 2, is amended to read:

Subd. 2. **ADJUSTABLE FIXED BENEFIT ANNUITY.** Adjustable fixed benefit annuity means the payments made from the participation in the fund to an annuitant, including a joint and survivor annuitant and qualified recipients of widows' surviving spouse benefits, after retirement in accordance with the provisions of this section. It also means that the payments made to such persons shall never be an amount less than the amount determined on or before June 30, 1969, or on retirement, whichever is later.

Sec. 8. Minnesota Statutes 1976, Section 352B.26, Subdivision 3, is amended to read:

Subd. 3. **VALUATION OF ASSETS; ADJUSTMENT OF BENEFITS.** (1) As of June 30, 1969, the present value of all annuities, including joint and survivor annuities and qualified recipients of widows' surviving spouse benefits, in force as of June 30, 1969, and as amended in accordance with Laws 1969, Chapter 977, shall be determined in accordance with the United States Life Tables, 1959-61, white males and white females, calculated with an interest assumption of three and one-half percent and assets representing the required reserves for these annuities shall be transferred to the Minnesota adjustable fixed benefit fund, during a period of one year in accordance with procedures specified in section 11.25. The provisions of this clause apply to all annuities which are payable under this chapter.

(2) Effective July 1, 1969, for those employees commencing to receive annuities and qualified recipients of widows' surviving spouse benefits, or joint and survivor annuities, pursuant to this chapter, and acts amendatory thereof, the required reserves as determined in accordance with this section shall be transferred to the Minnesota adjustable fixed benefit fund as of the date benefits begin to accrue after June 30, 1969.

(3) Annuity payments shall be adjusted in accordance with the provisions of section 11.25, subdivisions 12 and 13.

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(4) Notwithstanding section 356.18, increases in annuity payments pursuant to this section ~~will~~ shall be made automatically unless written notice is filed by the annuitant with the ~~officers of the highway patrolmen's retirement association~~ executive director of the Minnesota state retirement system requesting that the increase shall not be made.

Sec. 9. Minnesota Statutes 1976, Section 352B.28, is amended to read:

352B.28 **SURVIVING SPOUSE BENEFITS.** Subdivision 1. Upon the death of any highway patrolman who retired or separated from state service prior to July 1, 1965, ~~his widow~~ the surviving spouse, if ~~she was legally married to him~~ the patrolman during his service as a patrolman and residing with him at the time of death, shall receive for life an annuity of \$125 per month.

Subd. 2. The annuity of a ~~widow~~ surviving spouse of a member of the highway patrol who retired or separated from active service prior to July 1, 1965, and the ~~widow~~ surviving spouse of a highway patrolman who dies in service prior to the effective date of Laws 1969, Chapter 693, and who on May 25, 1973 is receiving an annuity of less than \$125 per month, shall thereafter be increased to \$125 per month.

Subd. 3. The annuity of a ~~widow~~ surviving spouse currently receiving an annuity by way of the state police officers retirement fund where there was no option of eligibility, shall on May 25, 1973 be increased to \$125 per month.

Subd. 4. The annuity of any ~~widow~~ surviving spouse granted or supplemented by this section shall cease in the event of remarriage of the recipient.

Sec. 10. Minnesota Statutes 1976, Section 352D.05, Subdivision 3, is amended to read:

Subd. 3. Upon termination of covered employment or at any time thereafter a participant shall be entitled to withdraw the cash value of his total shares or may leave such shares on deposit with the supplemental retirement fund. Shares not withdrawn shall remain on deposit with the supplemental retirement fund until the former participant attains the age of at least 58 years, and applies for an annuity as provided in section 352D.06, subdivision 1. ~~The provisions of this subdivision shall apply to any person with 42 months or more of service in the unclassified service and employer shares credited to his account with respect to that service, who terminated service prior to July 1, 1973.~~

Sec. 11. Minnesota Statutes, 1977 Supplement, Section 422A.09, Subdivision 3, is amended to read:

Subd. 3. The exempt class shall consist of:

(1) Employees who are members of any other organization or association of the city on behalf of which a tax is levied by the city for the purpose of paying retirement allowances to disabled or superannuated employees.

(2) Persons filling elective position. Provided that any elective officer holding an

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elective city office, excepting judges of a municipal court, shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class except retirement on a service allowance, which shall be granted only upon completion of ten or more years of service and attaining at least age 60.

All retirement allowances shall be computed and determined as provided herein, except that in determining the number of years of service, credit shall be given for time served as an elective officer or employee, or member of an executive board or commission or any combination thereof. Persons who have served in elective positions which qualified them for membership in the fund prior to July 1, 1967, and who immediately thereafter hold elective office, first being appointed to that elective office in Hennepin county in which they served as an elected official, may retain or resume membership in the fund as an elective officer of the county. The county shall collect and pay to the retirement fund the employee contribution. The employer cost of allowances and benefits credited to an elected officer as set forth above shall be paid from the county revenue fund by the proper county officials upon certification of such costs by the retirement board in the same manner as prescribed in section 422A.08 for the payment of costs by public corporations. A tax shall be levied by Hennepin county to defray the cost of such retirement allowances which may be in addition to all other taxes levied by the county. Before receiving a retirement allowance, or any other benefit, any person who claims credit for service under this section shall contribute to the fund an amount equal to the amount of contributions to the fund which such person would have made had he been a contributor to the fund since the date he first became eligible for membership in the fund, in accordance with the method of contribution herein provided for, plus four percent compound interest.

(3) Persons serving without pay.

(4) Persons employed on a temporary basis, as doorkeepers, ticket takers, and attendants at the municipal auditorium, park recreation facilities, or like activities, employed less than 1000 hours, or its equivalent if employed on any other basis than an hourly basis, in any calendar year from January 1 to December 31, inclusive, provided that employees who are contributing members of the fund on July 1, 1959 shall not be affected by the exclusions contained in this section.

(5) A person who is exempted from the contributing class by Minnesota Statutes 1974, Section 422A.09, Subdivision 3, Clauses (4) and (5), but who is employed by and paid, in whole or in part, by the city or any of its boards, departments, or commissions, operated as a department of the city government or independently, if financed in whole or in part by city funds, including any person employed by a public corporation as herein defined, and including any person employed by the Minneapolis school district, each of whom are not a member of any other retirement system, who later becomes a contributing member of the fund may elect to qualify such time for credit by paying into the fund an amount equal to the amount of contributions to the fund which such person would have made had he been a contributor to the fund since the date he first qualified as an exempt member of the contributing class, in accordance with the method of

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contribution herein provided, plus four percent compound interest.

(6) Any person who is employed by the city or any of its boards, departments, commissions or a public corporation, as herein outlined, and is excluded from participation in the fund by paragraph (4) shall be separated from the service upon reaching the age of 65 regardless of the provisions of the veterans preference act.

Sec. 12. Minnesota Statutes 1976, Chapter 422A, is amended by adding a section to read:

[422A.091] PENSION COVERAGE FOR CERTAIN EMPLOYEES OF THE METROPOLITAN AIRPORTS COMMISSION. Any person first employed as either a full time firefighter or a full time police officer by the metropolitan airports commission after June 30, 1978, who is not eligible for coverage under the agreement signed between the state and the secretary of the federal department of health, education and welfare making the provisions of the federal old age, survivors and disability insurance act applicable to municipal employees because that position is excluded from application pursuant to Title 42, United States Code, Sections 418 (d) (5) (A) and 418 (d) (8) (D) and section 355.07, shall not be a member of the Minneapolis municipal employees retirement fund but shall be a member of the public employees police and fire fund and shall be deemed to be a firefighter or a police officer within the meaning of section 353.64. The metropolitan airports commission shall make the employer contribution required pursuant to section 353.65, subdivision 3, with respect to each of its firefighters or police officers covered by the public employees police and fire fund and shall meet the employers recording and reporting requirements set forth in section 353.65, subdivision 4.

Sec. 13. Minnesota Statutes, 1977 Supplement, Section 422A.33, Subdivision 3, is amended to read:

Subd. 3. **SURVIVING SPOUSE OPTIONAL ANNUITY.** If a coordinated employee who has attained the age of at least 55 58 years and has credit for not less than 20 years of service dies before service has terminated, or if a coordinated employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in subdivision 2, an annuity equal to an option III annuity pursuant to section 422A.17 which the member could have qualified for on the date of death computed pursuant to section 422A.32. The annuity shall cease with the last payment received by the surviving spouse in his or her lifetime. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased coordinated employee over and above the total of the annuities paid or payable to the surviving spouse shall be paid to the deceased coordinated employee's last designated beneficiary or, if none, to the legal representative of the estate of the deceased employee. *Any coordinated employee may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary as otherwise provided in this chapter.*

Sec. 14. Minnesota Statutes 1976, Section 423.37, is amended to read:

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423.37 POLICE DEPARTMENT MAY FORM RELIEF ASSOCIATION IN CERTAIN CITIES. In each city of the third class the members of its police department may organize a policemen's relief association, or maintain any policemen's relief association existing therein on April 29, 1947. This association shall create, maintain, and administer a policemen's pension fund for the benefit of its members, the widows surviving spouses and children of its members, and the beneficiaries of any policemen's pension or benefit fund in operation on April 29, 1947. All such associations now existing as such corporations, or hereafter incorporated under the laws of this state, shall have perpetual existence. Laws 1947, Chapter 625, shall not apply to any associations in existence on April 29, 1947; but each such association may elect to come under its provisions by the adoption of a resolution of the members of said association signifying its intention to do so, by a majority vote of all members then entitled to vote and voting, at any annual meeting of said association, or at any special meeting duly called for that purpose, and upon the filing of a copy of said resolution certified by the proper officers, with the secretary of state, and the filing and recording in the office of the county recorder of the county in which such association is located. Upon the adoption of such a resolution, Laws 1947, Chapter 625, shall apply to all-accepting associations as fully as though such associations had been formed hereunder, notwithstanding the provisions of any constitution, bylaws, charter provision, or ordinance.

Sec. 15. Minnesota Statutes 1976, Section 423.371, Subdivision 2, is amended to read:

Subd. 2. **AMENDMENTS.** All associations organized or duly coming under this act, shall have the power to amend, from time to time, their articles of incorporation or their bylaws, and by the amendment of their bylaws from time to time, may, subject to the minimum and maximum pensions hereinafter provided, increase or decrease the disability and service pensions already being paid, or thereafter to be paid, to disability and service pensioners, their widows surviving spouses and children, and the widows surviving spouses and children of deceased members, so as to maintain as nearly as possible a proper relationship between the prevailing pay of active members of the association and the pensions being paid, or to be paid, to disability and service pensioners, and the widows surviving spouses and children of deceased pensioners and members, or to maintain the reserves accumulated in the special fund of the association, on a sound and safe basis, and the over-all solvency of the association. Pensions being paid by such associations to disability and service pensioners, and the widows surviving spouses and children of deceased pensioners and members, at the time this provision shall go into effect, and become law, shall not be reduced by any such amendment of the bylaws. The service pensions being paid retired members, and to be paid existing members, shall in no event be reduced to an amount less than the amount provided for disabled members now receiving disability pensions, or who may hereafter be entitled to receive disability pensions, and further provided that no reduction shall be made in the pensions being paid to either service or disability pensioners who retire from the force, following their retirement, unless a pro rata reduction is likewise made in the pensions to be paid members for service and disability pensions who may thereafter be entitled thereto.

Sec. 16. Minnesota Statutes 1976, Section 423.377, is amended to read:

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423.377 SALARY DEDUCTIONS. In addition, and only if such tax is levied, the city treasurer, finance commissioner or other officer charged with the responsibility of the city's finances, shall, each month, deduct from the salary of each policeman of such city subject to sections 423.37 to 423.391, four percent of the prevailing pay of all such policemen of such city, and transfer the total thereof to the treasurer of the special fund of the policemen's relief association, who shall credit said total to the special fund of such association and to the credit of each individual policeman from whose pay said deductions were so made.

If a policeman in any such city is separated from the service due to resignation or some reason not involving malfeasance, nonfeasance, moral turpitude, or if his separation from such service is caused by injury, death or other disability, under such circumstances that no pension benefits are payable to him or his widow surviving spouse or children, the treasurer of the special fund shall return to such policeman, or in case of his death, to his heirs, executors or administrators, all of the amounts so deducted from his pay without interest, but less the amount of any disability or other benefits theretofore paid to such policeman.

Sec. 17. Minnesota Statutes 1976, Section 423.38, is amended to read:

423.38 PURPOSES FOR WHICH EXPENDITURES MAY BE MADE. All moneys received by such relief association and deposited by it in its special fund shall be appropriated and disbursed by each such association only for the following purposes:

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

(b) For the payment of disability and service pensions to members of such relief associations.

(c) For the payment of salaries and expenses of its officers and employees, and the expense of operating and maintaining such relief association, including the premiums on the official bonds of its officers and employees.

Sec. 18. Minnesota Statutes 1976, Section 423.381, is amended to read:

423.381 RELIEF BENEFITS, ENTITLEMENT. Each relief association shall in its bylaws 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 surviving spouses and children of deceased members, and fix the age limit of children to which pensions may be paid, subject to, and in accordance with, the provisions of Laws 1947, Chapter 625.

Sec. 19. Minnesota Statutes 1976, Section 423.387, is amended to read:

423.387 BENEFITS; PENSIONERS, SURVIVORS. Subdivision 1. When a service pensioner, disability pensioner, or deferred pensioner, or an active member of such relief association dies, leaving:

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(a) a widow who became his legally married wife while or prior to the time he was on the payroll of any such police department as a policeman; and remained such continually after their 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 before his retirement from said police 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 born the issue of the lawful wedlock of such pensioner, or legally adopted by such pensioner during his lifetime: a surviving spouse, one or more surviving child, or both, such widow surviving spouse and said child or children shall be entitled to a pension or pensions as follows:

(1) To such widow surviving spouse a pension of not less than \$25 per month, as the bylaws of such association shall provide, for her the surviving spouse's natural life; provided, that if she the surviving spouse shall remarry, then such pension shall cease and terminate as of the date of her the surviving spouse's remarriage.

(2) To such child or children, if their mother the surviving spouse of the member is living and has not remarried, a pension of not to exceed \$25 per month for each child up to the time each child reaches the age of not less than 16, and not to exceed 18 years of age, which pension and age shall be fixed by the bylaws of such association. Provided, the total pension hereunder for the widow surviving spouse and children of said deceased member shall not exceed the sum of one-half of the prevailing monthly pay of such decedent during the major portion of the year immediately preceding the termination of his services as a policeman in the police department of such municipality, and thereafter the maximum pension of such widow surviving spouse and children shall not exceed one-half of the prevailing pay of active members of the association of equivalent rank to the position held by such decedent for the major portion of the year immediately preceding the termination of his services as a policeman, or the position most closely analogous thereto.

(3) A child or children of a deceased member receiving a pension or pensions hereunder shall, after the death or remarriage of their mother the surviving spouse of the member, be entitled to receive a pension or pensions in such amount or amounts as may be fixed by the bylaws of such association, until they reach the age of not less than 16 and not more than 18 years, as the bylaws of such association may provide; but the total amount of such pension or pensions hereunder for any child or children shall not exceed the sum of one-half of the prevailing pay of such decedent during the major portion of the year immediately preceding the termination of his services as a policeman in the police department of such municipality, and thereafter the maximum pension of such child or children shall not exceed one-half of the prevailing pay of active members of the association of equivalent rank to the position held by such decedent for the major portion of the year immediately preceding the termination of his services as a policeman, or the position most closely analogous thereto. The board of directors of such association shall determine to whom and for what purposes such pension, or pensions shall be paid for the benefit of such child or children.

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Subd. 2. (a) “Surviving spouse” means a person who became the member’s legally married spouse during or prior to the time the member was on the payroll of any such police department as a police officer, and remained such continuously after their marriage until the member’s death, without having been granted a marriage dissolution or legal separation, and who, in case the deceased member was a service or deferred pensioner, was legally married to the member before the member’s retirement from the police department; and who, in any case, was residing with the member at the time of the member’s death. No temporary absence for purposes of business, health or pleasure shall constitute a change of residence for purposes of this clause.

(b) “Surviving child” means any child born the issue of the lawful wedlock of a service, disability or deferred pensioner or of a deceased active member.

Sec. 20. Minnesota Statutes 1976, Section 423.48, is amended to read:

423.48 CONTRIBUTION BY MEMBERS; DEDUCTION BY TREASURER; SEPARATION OR DEATH. In addition, and only if such tax is levied, the city treasurer, finance commissioner, or other officer charged with the responsibility of the city’s finances, shall, each month, deduct from the salary of each policeman of such city subject to the provisions of sections 423.41 to 423.62, four percent of the basic pay of all such policemen of such city, and transfer the total thereof to the treasurer of the special fund of the policemen’s relief association, who shall credit said total to the special fund of such association and to the credit of each individual policeman from whose pay said deductions were so made.

If a policeman in any such city is separated from the service due to resignation or some reason not involving malfeasance, nonfeasance, moral turpitude, or if his separation from such service is caused by injury, death, or other disability, under such circumstances that no pension benefits are payable to him or his ~~widow~~ surviving spouse or children, the treasurer of the special fund shall return to such policeman, or in case of his death, to his heirs, executors, or administrators, all of the amounts so deducted from his base pay without interest, but less the amount of any disability or other benefits theretofore paid to such policeman.

Sec. 21. Minnesota Statutes 1976, Section 423.51, is amended to read:

423.51 DISBURSEMENT FROM SPECIAL FUND. All moneys received by such relief association and deposited by it in its special fund shall be appropriated and disbursed by each such association only for the following purposes:

(a) For the relief of sick, injured and disabled members of the association, their ~~widows~~ surviving spouses and orphans.

(b) For the payment of disability and service pensions to members of such relief associations.

(c) For the payment of salaries and expenses of its officers and employees, and the expense of operating and maintaining such relief association, including the premiums on

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the official bonds of its officers and employees.

Sec. 22. Minnesota Statutes 1976, Section 423.52, is amended to read:

423.52 BYLAWS, SPECIFICATIONS AND DEFINITIONS. Each relief association shall in its bylaws 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 surviving spouses and children of deceased members, and fix the age limit of children to which pensions may be paid, subject to, and in accordance with, the provisions of sections 423.41 to 423.62.

Sec. 23. Minnesota Statutes 1976, Section 423.58, is amended to read:

423.58 DEATH OF PENSIONER; RIGHTS OF SURVIVING SPOUSE AND CHILDREN. Subdivision 1. 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 any such police department as a policeman, and remained such continuously after their 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 before his retirement from said police 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 born the issue of the lawful wedlock of such pensioner, a surviving spouse, one or more surviving child, or both, such widow surviving spouse and said child or children shall be entitled to a pension or pensions as follows:~~

(1) ~~To such widow surviving spouse a pension of not less than \$50 and not to exceed \$100 per month, as the bylaws of such association shall provide, for her the surviving spouse's natural life; provided, however, that if she the surviving spouse shall remarry, then such pension shall cease and terminate as of the date of her the surviving spouse's remarriage.~~

(2) ~~To such child or children, if their mother the surviving spouse of the member is living and has not remarried, a pension of not to exceed \$25 per month for each child up to the time each child reaches the age of not less than 16, and not to exceed 18 years of age, which pension and age shall be fixed by the bylaws of such association. Provided, the total pension hereunder for the widow surviving spouse and children of said deceased member shall not exceed the sum of \$150 per month.~~

(3) ~~A child or children of a deceased member receiving a pension or pensions hereunder shall, after the death or remarriage of their mother the surviving spouse of the member, be entitled to receive a pension or pensions in such amount or amounts as may be fixed by the bylaws of such association, until they reach the age of not less than 16 and not more than 18 years, as the bylaws of each association may provide; but the total~~

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amount of such pension or pensions hereunder for any child or children shall not exceed the sum of \$150 per month.

Subd. 2. (a) "Surviving spouse" means a person who became the member's legally married spouse during or prior to the time the member was on the payroll of any such police department as a police officer, and remained such continuously after their marriage until the member's death, without having been granted a marriage dissolution or legal separation, and who, in case the deceased member was a service or deferred pensioner, was legally married to the member before the member's retirement from the police department; and who, in any case, was residing with the member at the time of the member's death. No temporary absence for purposes of business, health or pleasure shall constitute a change of residence for purposes of this clause.

(b) "Surviving child" means any child born the issue of the lawful wedlock of a service, disability or deferred pensioner, or of a deceased active member.

Sec. 24. Minnesota Statutes 1976, Section 423.802, Subdivision 2, is amended to read:

Subd. 2. This association shall create, maintain, and administer a policemen's pension fund for the benefit of its members, their ~~widows~~ surviving spouses, and their children.

Sec. 25. Minnesota Statutes 1976, Section 423.810, Subdivision 1, is amended to read:

423.810 **BENEFITS.** Subdivision 1. The association shall grant pensions or benefits payable from the policemen's pension fund to any member or to any ~~widow~~ surviving spouse 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; a surviving spouse, one or more surviving children, or both, the widow surviving spouse and child, or children, shall be entitled to a pension, or pensions, as follows:~~

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

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(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 surviving spouse and children of a deceased member shall not exceed 36 units per month.

“Surviving spouse” means a person who was the member’s legally married spouse, residing with the member, and who was married during or prior to the time the member 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 the member’s retirement from the police department. “Surviving child” means any child of the deceased member who was living while the deceased member was on the payroll of the police department or was born within ten months after the deceased member was withdrawn from the payroll of the police department.

Sec. 26. Minnesota Statutes 1976, Section 423.810, Subdivision 2, is amended to read:

Subd. 2. A widow surviving spouse 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 surviving spouse 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 the member’s spouse 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.

Sec. 27. Minnesota Statutes 1976, Section 424.16, is amended to read:

424.16 SPECIAL FUND; DISBURSEMENT; SEGREGATION IN CASE OF VOLUNTEER MEMBERS. The amounts so paid to relief association by the state and each city under the provisions of sections 424.01 to 424.29 and by it set aside and deposited as a special fund, shall be appropriated and disbursed by each such association for the following purposes:

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

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

(3) In any city of the second class in which members of the firemen’s relief association include volunteer firemen the special fund shall be segregated into two accounts, one of which shall be for the benefit of members who are volunteer firemen, and the other for the benefit of members who are paid firemen. All moneys received by the association which are derived from payroll deductions from paid firemen’s salaries under section 424.12 shall be paid into the account of the fund for the benefit of paid firemen only. Funds received from other sources shall be allocated between the account for the benefit of paid firemen and the account for the benefit of volunteer firemen in such proportions as shall be designated by the governing body of the city from time to

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time. In the event the governing body of the city shall abolish the volunteer branch of its fire department any surplus remaining in the account of the fund for the benefit of volunteer firemen after discharging all obligations to those who are volunteer members at the time of such abolition shall be paid into the account of the fund for the benefit of paid firemen. Any funds of a firemen's relief association in a municipality which shall have become a city of the second class by adoption of a home rule charter, or increase in its population, may be allocated by action of the governing body of such city between the respective accounts of the special fund of the relief association for the benefit of paid firemen and volunteer firemen if, prior to becoming a city of second class, the municipality shall have had a relief association whose members included volunteer firemen.

(4) For the payment of necessary expenses of administering such fund, including the secretary's and treasurer's salaries.

Sec. 28. Minnesota Statutes 1976, Section 424.17, is amended to read:

424.17 RELIEF, DETERMINATION OF ENTITLEMENT; VOLUNTEERS INCLUDED. Each relief association shall, in its bylaws, 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 surviving spouses and children of deceased members, and to fix the age limit of children to which pensions may be paid. When the total assets of the association shall amount to \$50,000 or more, it shall have the right to pay to its members the maximum amounts specified in sections 424.01 to 424.29. The bylaws of such association shall provide for payment of a service pension to volunteer firemen who are members of the association, which service pension shall be paid in a lump sum in an amount not exceeding \$100 per year of service, to a retiring member or widow surviving spouse or minor children of a deceased member who qualifies for a service pension by reason of having reached the age of 50 years, and who has done active duty for 20 years or more as a volunteer fireman of the fire department in the municipality where the association exists. The bylaws of such association may provide for payment of a service pension to volunteer firemen who are members of the association, which service pension shall be paid in a lump sum, in an amount not exceeding \$100 per year of service, to a retiring member, who qualifies for a service pension by reason of having become physically disabled (as certified by a physician designated by the governing body of the municipality) so that he cannot continue with his duties as a volunteer fireman of the fire department in the municipality where the association exists, or to the widow surviving spouse or minor children of a deceased member who dies before reaching the age of 50 years, and before rendering 20 years active duty as a volunteer fireman. No other pension or benefit shall be payable to members of the association who are volunteer firemen, provided that, if the services of all volunteer firemen are discontinued and the volunteer division of the fire department abolished by the municipality, the volunteer firemen who are members of the association at the time of such discontinuance and abolishment shall be paid a service pension, in a lump sum, in an amount not to exceed \$100 per year of service rendered prior to such discontinuance and abolishment. In determining the period of service of any individual member of the association for the purpose of computation of service requirements in connection with payment of any pensions or other benefits specified by the bylaws of the

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relief association, or any provision of sections 424.03 to 424.29, service of a volunteer or paid fireman of the fire department of the municipality in which the relief association is situated, and membership in a firemen's relief association in such municipality prior to said municipality becoming a city of the second class, shall be taken into account on the same basis as if said municipality had been a city of the second class during all of the time such service was rendered.

Sec. 29. Minnesota Statutes 1976, Section 424.24, is amended to read:

424.24 PENSIONS TO SURVIVORS. Subdivision 1. When a service pensioner, disability pensioner, or deferred pensioner, or an active member of such relief association dies, leaving:

(1) ~~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 the 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 the 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.~~

(2) ~~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 the decedent was withdrawn from the payroll of the fire department; a surviving spouse, one or more surviving child, or both, such widow surviving spouse and the child or children shall be entitled to a pension or pensions as follows:~~

(a) ~~To such a widow the surviving spouse~~ a pension of not less than \$25, and not to exceed \$50 per month; provided that the bylaws of a relief association in a city of second class situated in a county in which there is also a city of first class may provide for a pension of not more than a sum equal to 40 percent of the monthly salary of a fireman of the highest grade (not including officers of the department) in the employ of the municipality from time to time during the period of the pension payment, as the bylaws of the association provide for ~~her~~ the natural life of the surviving spouse; provided, that if ~~she~~ the surviving spouse shall remarry, such pension shall cease and terminate as of the date of ~~her~~ remarriage.

(b) ~~To such child or children, if their mother the surviving spouse of the member is living, a pension of not to exceed \$15 per month; provided that the bylaws of a relief association in a city of second class situated in a county in which there is also a city of first class may provide for a pension of not more than a sum equal to five percent of the monthly salary of a fireman of the highest grade (not including officers of the department) in the employ of the municipality from time to time during the period of the pension payment, for each child up to the time each child reaches the age of not less than 16, and not to exceed an age of 18 years, in conformity with the bylaws of each association; provided, the total pension hereunder for the widow surviving spouse and children of the deceased member shall not exceed the sum of \$75 per month; provided~~

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that the bylaws of a relief association in a city of second class situated in a county in which there is also a city of first class may provide for a pension of not more than a sum equal to 50 percent of the monthly salary of a fireman of the highest grade (not including officers of the department) in the employ of the municipality from time to time during the period of the pension payment.

(c) A child or children of a deceased member receiving a pension or pensions hereunder shall, after the death of ~~their mother~~ the surviving spouse of the member, be entitled to receive a pension or pensions in the amount or amounts 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 bylaws of each association may provide; but the total amount of such pension or pensions hereunder for any such child or children shall not exceed the sum of \$75 per month; provided that the bylaws of a relief association in a city of second class situated in a county in which there is also a city of first class may provide for a pension of not more than a sum equal to 50 percent of the monthly salary of a fireman of the highest grade (not including officers of the department) in the employ of the municipality from time to time during the period the pension payment is payable.

Subd. 2. (a) "Surviving spouse" means a person who became the member's legally married spouse during or prior to the time the member was on the payroll of any such fire department as a firefighter, and remained such continuously after their marriage until the member's death, without having been granted a marriage dissolution or legal separation, and who, in case the deceased member was a service or deferred pensioner, was legally married to the member for at least three years prior to the member's retirement from the fire department; and who, in any case, was residing with the member at the time of the member's death. No temporary absence for purposes of business, health or pleasure shall constitute a change of residence for purposes of this clause.

(b) "Surviving child" means any child of the member living while the deceased member was on the payroll of the fire department, or who were born within nine months after the deceased member was withdrawn from the payroll of the fire department.

Sec. 30. Minnesota Statutes 1976, Section 424.29, is amended to read:

424.29 PENSIONS TO BE UNIFORM. All pensions paid to firemen or their ~~widows~~ surviving spouses pursuant to the provisions of sections 424.01 to 424.29 shall be uniform except as may be specifically provided for therein.

Sec. 31. Minnesota Statutes 1976, Section 424.31, is amended to read:

424.31 BOARD OF TRUSTEES OF FIREMEN'S RELIEF ASSOCIATIONS. The board of trustees of every firemen's relief association of this state shall be composed of the following persons: Six trustees elected annually by such firemen's relief association from its own members and the following ex officio members taken from the officers of the municipality in which the relief association is located, the mayor or president, the recorder or clerk, the treasurer, and the chief of the fire department thereof; and any such board of trustees of a duly incorporated relief association shall have exclusive control and

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management of all funds received by its treasurer under the provisions of sections 424.30 and 424.31, funds derived from the state of Minnesota, and all moneys or property donated, given, granted, or devised for the benefit of these funds, and such funds when received shall be kept in a special fund on the books of the secretary and treasurer of the association and never disbursed for any purpose except the following:

(1) For the relief of sick, injured, and disabled members of any fire department in such city;

(2) For the payment of pensions to disabled firemen and the ~~widows~~ surviving spouses and orphans of firemen;

(3) For the payment of pensions to retired firemen pursuant to the laws of the state;

(4) For the payment of the fees, dues, and assessments in the Minnesota state fire department association, and in the volunteer firemen's benefit association of Minnesota so as to entitle the members of any qualified fire department to membership in and benefits of such state association;

(5) For the payment of such death or funeral benefits as may be from time to time stipulated in the bylaws of the respective relief associations; and

(6) For the payment of necessary expenses of administering such fund, including the salaries of the president, secretary and treasurer.

The term " widow surviving spouse " means a ~~woman person~~ who was the wife spouse of a fireman or pensioner during the time he the member was an active fireman, provided that ~~she~~ the spouse was married to ~~him~~ the member three or more years prior to the time when such fireman retired as a service pensioner. The term " widow surviving spouse " shall not include the surviving wife spouse who has deserted a fireman or pensioner or who has not been dependent upon ~~him~~ the member for support.

The funds received by any relief association from dues, fines, initiation fees, and entertainments shall be kept in a fund called the general fund and may be disbursed for any purposes authorized by the articles of incorporation and bylaws of the association. The relief association is hereby authorized and empowered to invest its funds in such income paying properties and securities as the council of the city in which such organization is located shall from time to time authorize. Benefits shall in all cases be within the limits authorized by state law and in accordance with the articles of incorporation and bylaws of the association.

Sec. 32. Laws 1969, Chapter 1088, Section 4, Subdivision 4, is amended to read:

Subd. 4. The association may provide for the payment of a pension pension to the surviving children of a deceased member who performed services in the department for more than ten years but less than 20 years and whose position as a volunteer fireman was eliminated or who became physically or mentally disabled so as to be totally and

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permanently incapable of performing service in the department, who also survive their mother. The said pension shall be payable upon the death of the member if he is not survived by a widow entitled to receive a pension or upon the death of a widow entitled to receive a pension or upon the occurrence of any event which terminates the widow's right to receive a pension under section 2, subdivision 2, of this act. The children's pension shall be in the amount of \$1.25 per month for each year of the deceased member's service, provided that the total aggregate payments to the children of a deceased member under this section shall not exceed \$200 per month.

Sec. 33. Laws 1977, Chapter 61, Section 5, is amended to read:

Sec. 5. TRUST FUND FOR RELIEF ASSOCIATION BENEFICIARIES.
Subdivision 1. Notwithstanding any law to the contrary, effective January 1, 1978, the special funds of the Eveleth police relief association and the Eveleth firemen's relief association shall be transferred to the city of Eveleth. The city of Eveleth, on the same date, shall transfer an amount equal to \$123,600 to a special account established by the city which shall be maintained separately as a trust fund for the exclusive benefit of the retired members of the Eveleth police relief association and the Eveleth firemen's relief association who were receiving benefits on the effective date of this act and their surviving spouses if otherwise entitled to benefits under the laws governing the respective former relief associations. The trust fund shall be managed by a board of trustees composed of three members, with one member selected by the retired members of the former firemen's relief association, one member selected by the retired members of the former police relief association, and one member selected by the city council. The term of the board shall be indefinite and shall continue until a vacancy shall occur in one of the positions on the board. The city of Eveleth shall perform whatever services are necessary to administer the trust fund. The balance of the trust fund shall not revert to the city of Eveleth until all obligations of the trust fund are paid. The benefit provisions of the Eveleth police relief association and the Eveleth firemen's relief association which were in effect as of the effective date of this act, including Minnesota Statutes 1976, Sections 423.22 to 423.36, shall continue in force to govern the respective benefits paid out of the trust fund.

Subd. 2. Upon the transfer of money and the establishment of the joint trust fund pursuant to subdivision 1, the board of trustees shall have an actuarial valuation or survey made for the joint trust fund in accordance with the filing requirements and the applicable actuarial standards set forth in the general statute governing actuarial reporting by police and fire funds. The board of trustees shall also complete and file a financial report for the joint trust fund in accordance with Minnesota Statutes, Section 69.051.

Sec. 34. Minnesota Statutes 1976, Sections 423.22; 423.23; 423.24; 423.25; 423.26; 423.27; 423.28; 423.29; 423.30; 423.31; 423.32; 423.33; 423.34; 423.35; 423.36; 425.01; 425.02; 425.03; 425.04; 425.05; 425.06; 425.07; 425.08; and 425.09 are repealed.

Sec. 35. Section 11 shall be effective for elective officers first holding elective city office after the effective date of this act and shall not apply to any incumbent elective officers holding elective city office on the effective date of this act. This act is effective the day following final enactment.

Approved March 23, 1978.

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