

Subd. 3. An employee in the chief pilot classification at the current salary range maximum shall receive an immediate adjustment to \$33,000 per year in the commissioner's plan.

Subd. 4. Other employees in the pilot classification not at the current salary range maximum shall receive an immediate adjustment to \$24,500 per year in the commissioner's plan.

Sec. 4. EFFECTIVE DATE.

Sections 1 and 3 are effective June 1, 1982. Section 2 is effective July 1, 1983, except that, as of the date of final enactment, an exclusive representative of a unit provided in section 2 shall have all the contract representation duties of the exclusive representative with respect to employees to be newly included in that unit pursuant to section 2.

Approved March 18, 1982

CHAPTER 460 — S.F.No. 1591

*An act relating to retirement; volunteer firefighters relief associations; fire and police state aid programs; combining various reports for purposes of qualifying for fire state aid; modifying the presumptions used in determining qualification for fire or police state aid; clarifying the duration of disqualification from receipt of fire or police state aid in the event of noncompliance with financing guidelines; clarifying the procedure for crediting service by certain probationary volunteer firefighters; clarifying a limitation on the payment of service pensions to active volunteer firefighters; amending Minnesota Statutes 1980, Sections 69.021, Subdivision 4; 69.051, Subdivision 3; 69.771, Subdivision 3; and 424A.01, by adding a subdivision; Minnesota Statutes 1981 Supplement, Sections 69.011, Subdivision 2; 69.051, Subdivision 1; 69.77, Subdivision 1; and 424A.02, Subdivision 1.*

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

Section 1. Minnesota Statutes 1981 Supplement, Section 69.011, Subdivision 2, is amended to read:

Subd. 2. CLERK TO FILE CERTIFICATE QUALIFICATION FOR FIRE OR POLICE STATE AID. (a) In order to qualify to receive fire state aid, on or before March 1, annually, in conjunction with the financial report required pursuant to section 69.051, subdivision 1 or 3, the clerk of each municipality having a duly organized fire department as provided in subdivision 4, clause (1) or the secretary of each independent nonprofit fire fighting corporations corporation having a relief and retirement plan or subsidiary incorporated firefighter's relief association whichever is applicable, and the secretary and the treasurer of the firefighter's relief association, shall jointly certify that fact the existence of the

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municipal fire department or of the independent nonprofit firefighting corporation, whichever is applicable, which meets the minimum qualification requirements set forth in this subdivision, and the fire personnel and equipment of the municipal fire department or the independent nonprofit firefighting corporation as of the preceding December 31. Certification shall be made to the commissioner on a form prescribed by him together with the commissioner and shall include any other facts the commissioner may require. The certification shall be made to the commissioner in duplicate. Each copy of the certificate shall be duly executed and deemed an original. The commissioner shall forward one copy to the auditor of the county wherein the fire department is located and retain one copy.

(b) On or before March 1 annually the clerk of each municipality having a duly organized police department and having a duly incorporated relief association shall certify that fact to the county auditor of the county where the police department is located and to the commissioner on a form prescribed by him together with the other facts the commissioner or auditor may require.

On or before March 1 annually, the clerk of each municipality and the auditor of each county employing one or more police officers as defined in subdivision 1, clause (h), shall certify the number of such police officers to the commissioner on forms prescribed by him. Credit for officers employed less than a full year shall be apportioned. Each full month of employment of a qualifying officer during the calendar year shall entitle the employing municipality or county to credit for one-twelfth of the payment for employment of a police officer for the entire year. For purposes of sections 69.011 to 69.051, employment of a police officer shall commence when the police officer is entered on the payroll of the respective municipal police department or county sheriff's department. No police officer shall be included in the certification of the number of police officers by more than one municipality or county for the same month.

Sec. 2. Minnesota Statutes 1980, Section 69.021, Subdivision 4, is amended to read:

Subd. 4. **DETERMINATION OF QUALIFIED STATE AID RECIPIENTS; CERTIFICATION TO COMMISSIONER OF FINANCE.** ~~Within six months after January 1~~ The commissioner shall determine which municipalities and independent nonprofit firefighting corporations are qualified to receive fire state aid and which municipalities and counties are qualified to receive police state aid. Any municipality, independent nonprofit firefighting corporation or county which received state aid for the year immediately previous shall be presumed to be qualified to receive state aid for the year in question. If subsequent examination reveals that the state aid recipient was not in fact qualified to receive state aid for any year, the commissioner shall retroactively disqualify the recipient and shall take any necessary steps to recover the state aid payments which had been made for the years of disqualification, plus interest at a

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rate equal to the maximum lawful interest rate for a state bank pursuant to section 48.195, as of the date of disqualification, compounded annually from the date on which the state aid payment was made until the date on which the payment is recovered. The determination of qualification by the commissioner shall be based on information contained in the fire department, personnel and equipment certification required pursuant to section 69.011, the annual financial report required pursuant to section 69.051, any actuarial valuation or experience study report required pursuant to sections 69.77 or 69.773, any audits conducted by the state auditor or an independent auditor, and any other relevant information which comes to the attention of the commissioner. Upon completion of the determination, on or before June 1, the commissioner shall calculate pursuant to subdivision 6 the amount of fire state aid and police state aid which each county is to receive for subsequent apportionment pursuant to subdivision 7 and shall certify to the commissioner of finance the name of each county qualified to receive state aid in which are located one or more qualified state aid recipients and the amount of state aid which each county is to receive for subsequent apportionment. At the same time the commissioner shall certify to each county auditor the municipalities or independent fire departments in such county who have qualified to receive state aid and other information he deems necessary to carry out the requirements of this section. The commissioner shall also certify to each county auditor the name of each qualified state aid recipient located in the county and any other information deemed necessary for the county auditor to make the subsequent apportionment of state aid.

Sec. 3. Minnesota Statutes 1981 Supplement, Section 69.051, Subdivision 1, is amended to read:

Subdivision 1. **FINANCIAL REPORT OF ASSOCIATION.** The secretary and the treasurer of each ~~duly incorporated~~ firefighters relief association or police relief association located in any municipality of any class shall, in conjunction with the fire department personnel and equipment certificate required pursuant to section 69.011, subdivision 2, clause (a), or the police department and qualified police officers certificate required pursuant to section 69.011, subdivision 2, clause (b), whichever is applicable, annually prepare and sign jointly a detailed financial report of the association's receipts of, disbursements from and balances in its the special and general funds of the relief association for the preceding calendar year ending December 31, showing for what purpose the money has been paid and expended and, on a form prescribed by the commissioner. The financial report shall contain any other information which the commissioner may require, and, on or before June 30 following, file a copy with the municipality wherein the relief association is located and two copies with the commissioner deems necessary to reveal the true financial condition of the relief association and the compliance of the relief association with the regulatory, financing and funding provisions of this chapter and any other applicable laws. The financial report shall be countersigned by the municipal clerk or clerk-treasurer of the municipality in which the relief association is located if the relief

association is a firefighters relief association which is directly associated with a municipal fire department or is a police relief association, or countersigned by the secretary of the independent nonprofit firefighting corporation and by the municipal clerk or clerk-treasurer of the largest municipality in population which contracts with the independent nonprofit firefighting corporation if the relief association is a subsidiary of an independent nonprofit firefighting corporation. The financial report shall be filed by the municipal clerk or clerk-treasurer with the commissioner on or before March 1 annually. The commissioner shall forward one copy to the county auditor of the county wherein the municipality is located. No state aid or tax moneys shall be paid over by the municipality to an association until the report is filed with the municipality. The financial report shall be certified by an independent public accountant who shall give his opinion as to the condition of the funds and comment upon any exception to the report, or in lieu thereof file with the commissioner an audit report prepared by the state auditor. A police or firefighters relief association shall not qualify to receive future state aid pursuant to this chapter until the report is filed with the commissioner and the requirements of this chapter have been complied with.

The relief association financial report shall be certified by an independent public accountant or auditor or by the auditor or accountant who regularly examines or audits the financial transactions of the municipality. In addition to certifying the financial condition of the special and general funds of the relief association, the accountant or auditor conducting the audit shall give an opinion as to the condition of the special and general funds of the relief association, and shall comment upon any exceptions to the report. The independent accountant or auditor shall have at least five years of public accounting, auditing or similar experience, and shall not be an active, inactive or retired member of the relief association or the fire or police department.

A municipality or police or firefighters relief association shall not qualify initially to receive, or be entitled subsequently to retain, state aid pursuant to this chapter if the financial reporting requirement or the applicable requirements of this chapter or any other statute or special law have not been complied with or are not fulfilled.

Sec. 4. Minnesota Statutes 1980, Section 69.051, Subdivision 3, is amended to read:

**Subd. 3. REPORT BY MUNICIPALITY CERTAIN MUNICIPALITIES.** Each municipality having which has an organized fire department and but which does not having have a duly incorporated firefighter's relief association shall annually prepare a certified detailed financial report as prescribed by the commissioner of the receipts and disbursements by the municipality for fire protection service during the preceding calendar year, showing for what purposes the money has been paid and expended and, on a form prescribed by the commissioner. The financial report shall contain any other information which

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the commissioner may require, and, on or before June 30 following, file two duly certified copies with the commissioner deems necessary to disclose the sources of receipts and the purpose of disbursements for fire protection service. The financial report shall be signed by the municipal clerk or clerk treasurer of the municipality. The financial report shall be filed by the municipal clerk or clerk-treasurer with the commissioner on or before March 1 annually. The commissioner shall forward one copy to the county auditor of the county wherein the municipality is located. The municipality shall not qualify initially to receive future, or be entitled subsequently to retain, state aid until the report is filed with the commissioner pursuant to this chapter if the financial reporting requirement or the applicable requirements of this chapter or any other statute or special law have not been complied with or are not fulfilled.

Sec. 5. Minnesota Statutes 1981 Supplement, Section 69.77, Subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZED EMPLOYER SUPPORT FOR A RELIEF ASSOCIATION.** Notwithstanding any law to the contrary, a municipality may contribute public funds, including any applicable police or fire state aid, or levy property taxes for the support of a police or firefighters' relief association, enumerated in subdivision 1a, however organized, which provides retirement coverage or pays a service pension to a retired police officer or firefighter or a retirement benefit to a surviving dependent of either an active or retired police officer or fire fighter, for the operation and maintenance of the relief association only if the municipality and the relief association comply with the provisions of this section. The commissioner of insurance shall not include any municipality in the apportionment of police or fire state aid to the county auditor pursuant to section 69.021, subdivision 6, nor shall any county auditor include any municipality in the apportionment of police or fire state aid pursuant to section 69.021, subdivision 7, in which there exists a local police or salaried firefighters relief association as enumerated in subdivision 1a which does not comply with the provisions of this section or the provisions of any applicable special law relating to the funding or financing of the association and that municipality shall not qualify initially to receive, or be entitled subsequently to retain, state aid pursuant to sections 69.011 to 69.051 until the reason for disqualification is remedied, whereupon the municipality, if otherwise qualified, shall be entitled to again receive state aid for the year occurring immediately subsequent to the year in which the disqualification is remedied. The commissioner of insurance shall determine if a municipality with a local police or salaried firefighters relief association fails to comply with the provisions of this section or the funding or financing provisions of any applicable special law.

Sec. 6. Minnesota Statutes 1980, Section 69.771, Subdivision 3, is amended to read:

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**Subd. 3. REMEDY FOR NONCOMPLIANCE; DETERMINATION.**

The commissioner of insurance shall not include any municipality in the apportionment of fire state aid to a county auditor pursuant to section 69.021, subdivision 6, nor shall any county auditor include Any municipality in the apportionment of fire state aid pursuant to section 69.021, subdivision 7, in which there exists a firefighters' relief association as enumerated specified in subdivision 1 which does not comply with the applicable provisions of sections 69.771 to 69.776 or the provisions of any applicable special law relating to the funding or financing of the association shall not qualify initially to receive, or be entitled subsequently to retain, fire state aid pursuant to sections 69.011 to 69.051 until the reason for disqualification is remedied, whereupon the municipality or relief association, if otherwise qualified, shall be entitled to again receive fire state aid for the year occurring immediately subsequent to the year in which the disqualification is remedied. The commissioner of insurance shall determine if a municipality to which a firefighters' relief association is directly associated or a firefighters' relief association fails to comply with the provisions of sections 69.771 to 69.776 or the funding or financing provisions of any applicable special law based upon the information contained in the annual financial report of the firefighters' relief association required pursuant to section 69.051.

Sec. 7. Minnesota Statutes 1980, Section 424A.01, is amended by adding a subdivision to read:

**Subd. 3a. SERVICE CREDIT FOR CERTAIN PROBATIONARY VOLUNTEER FIREFIGHTERS.** Unless the bylaws of the volunteer firefighters relief association clearly provide to the contrary, any person:

(a) who has served as a probationary volunteer firefighter with a municipal fire department to which a volunteer firefighters relief association governed by chapter 69 and this chapter is directly associated or with an independent nonprofit firefighting corporation to which a volunteer firefighters relief association governed by chapter 69 and this chapter is subsidiary; and

(b) who is a member of that volunteer firefighters relief association;

shall be entitled to have the period of service as a probationary volunteer firefighter credited as a period of active service as an active member of the municipal fire department or the independent nonprofit firefighting corporation, whichever is applicable, for purposes of calculating a service pension or other retirement benefits.

Sec. 8. Minnesota Statutes 1981 Supplement, Section 424A.02, Subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZATION.** Any volunteer firefighters' relief association or volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association organized and incorporated under chapter 317 and any laws of the state and directly associated

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with a fire department established by municipal ordinance or any separate incorporated volunteer firefighters' relief association subsidiary to and providing service pension and retirement benefit coverage for members of an independent nonprofit firefighting corporation organized under the provisions of chapter 317 and operating exclusively for fire fighting purposes, whether or not the nonprofit firefighting corporation qualifies for fire state-aid pursuant to chapter 69, when its articles of incorporation or bylaws so provide; may pay out of the assets of the special fund of the volunteer firefighters' relief association or volunteer firefighters' account, a service pension to each of its members who separates from active service with the fire department or the independent nonprofit firefighting corporation, who reaches the age of 50 years and who completes at least ten years of active service as an active member of the municipal fire department to which the relief association is associated or of the independent nonprofit firefighting corporation to which the relief association is subsidiary, and who completes at least ten years of active membership with the volunteer firefighters' relief association or volunteer firefighters' account prior to separation from active service and who complies with any additional conditions as to age, service and membership which are prescribed by the bylaws of the relief association. In the case of a member who has completed at least ten years of active service as an active member of the municipal fire department to which the relief association is associated or of the independent nonprofit firefighting corporation to which the relief association is subsidiary on the date that the volunteer firefighters' relief association is established and incorporated, the requirement that the member complete at least ten years of active membership with the volunteer firefighters' relief association or volunteer firefighters' account prior to separation from active service may be waived by the board of trustees of the relief association if the member completes at least ten years of inactive membership with the volunteer firefighters' relief association or volunteer firefighters' account prior to the payment of the service pension. During the period of inactive membership, the member shall not be entitled to receive any disability benefit coverage, shall not be entitled to receive any additional service credit towards computation of a service pension, and shall be deemed to have the status of a person entitled to a deferred service pension pursuant to subdivision 7.

No municipality or nonprofit firefighting corporation is authorized to delegate the power to take final action in setting a service pension or retirement benefit amount or level to the board of trustees of the volunteer firefighters relief association or to approve in advance a service pension or retirement benefit amount or level equal to the maximum amount or level which this chapter would allow rather than a specific dollar amount or level.

No volunteer firefighters' relief association or volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association is authorized to pay a service pension or disability benefit to any former member of the relief association if that person has not separated from active service with the fire department to which the volunteer firefighters' relief

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association is directly associated or with the independent nonprofit firefighting corporation to which the volunteer firefighters' relief association is subsidiary.

**Sec. 9. EFFECTIVE DATE.**

Sections 1, 2, 3, 4, 5 and 6 shall be effective on January 1, 1983. Sections 7 and 8 shall be effective retroactively to July 1, 1979.

Approved March 18, 1982

**CHAPTER 461 — S.F.No. 412**

*An act relating to commerce; providing that married couples filing petitions in bankruptcy select either state or federal exemptions; proposing new law coded in Minnesota Statutes, Chapter 550.*

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

**Section 1. [550.371] EXEMPTIONS IN JOINT BANKRUPTCY.**

Subdivision 1. APPLICABLE LAW. Except as provided in this section, the exemptions set forth in subsection (d) of Section 522 of the Bankruptcy Act, 11 United States Code Section 522(d), shall be available to residents of this state.

Subd. 2. JOINT PETITION. When a husband and wife are joined in a petition for bankruptcy, they may jointly elect to utilize either the applicable exemption provisions pursuant to Minnesota law or pursuant to subsection (d) of Section 522 of the Bankruptcy Act, 11 United States Code Section 522(d), but not both.

Subd. 3. INDIVIDUAL PETITION. When a petition for bankruptcy is filed individually, and not jointly, for a husband or a wife, (a) one spouse shall not claim any exemption pursuant to Minnesota law for a period of three years from the date of filing if the other spouse has claimed any exemption under subsection (d) of Section 522 of the Bankruptcy Act, 11 United States Code Section 522(d); and (b) one spouse shall not claim any exemption pursuant to subsection (d) of Section 522 of the Bankruptcy Act, 11 United States Code Section 522(d), for a period of three years from the date of filing if the other spouse has claimed any exemption pursuant to Minnesota law.

Subd. 4. MARITAL STATUS DETERMINED. For the purposes of this section, persons shall be considered to be husband and wife if they are married to each other at the time of the filing of the first individual or joint petition for bankruptcy by either of them unless a decree of separation or temporary order of separation of the parties is issued prior to the time the petition is filed.

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