

CHAPTER 609 — H.F.No. 1734

An act relating to courts; authorizing the continuance of the office of court referee in the second and fourth judicial districts; amending Minnesota Statutes 1981 Supplement, Section 484.70, Subdivision 1.

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

Section 1. Minnesota Statutes 1981 Supplement, Section 484.70, Subdivision 1, is amended to read:

Subdivision 1. The office of referee is abolished. No vacancy in the office of referee, including family, juvenile, probate, and special term referees, shall be filled, nor new office created. Persons holding the office of referee on June 30, 1980, in the second and August 15, 1980, in the fourth judicial district may continue to serve at the pleasure of the chief judge of the district under the terms and conditions of their appointment. The offices in existence on August 15, 1980, in the fourth judicial district may continue at the pleasure of the chief judge of the district. Any vacancy arising prior to June 1, 1984, in the described offices in the fourth judicial district may be filled by the chief judge of the district only upon his determination that available judicial personnel are unable to meet the demands of the caseload. All referees are subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3, and are not limited to assignment to family, probate, juvenile or special term court. Part time referees holding office in the second judicial district pursuant to this subdivision shall cease to hold office on July 31, 1984.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day after final enactment.

Approved March 23, 1982

CHAPTER 610 — H.F.No. 1737

An act relating to employee benefits; permitting political subdivisions to provide additional benefits to those provided under workers' compensation law; local police and salaried firefighters relief associations; providing minimum disability benefit coverage for police officers and firefighters in certain local relief associations; providing for the recomputation of a disability benefit as a service pension upon the attainment of a certain age; providing service credit for periods of disability in certain instances; requiring the provision of less hazardous duty employment positions for marginally disabled police

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officers and firefighters; requiring offsets from disability benefits in certain instances; authorizing the establishment and operation of the West St. Paul firefighters relief association; validating prior actions by the West St. Paul firefighters relief association; amending Minnesota Statutes 1980, Section 176.021, Subdivision 5; proposing new law coded in Minnesota Statutes, Chapter 423A.

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

Section 1. Minnesota Statutes 1980, Section 176.021, Subdivision 5, is amended to read:

Subd. 5. **ACCUMULATED CREDITS, ADDITIONAL PAYMENTS.** If employees of the state or a county, city or other political subdivision of the state who are entitled to the benefits of the workers' compensation law have, at the time of compensable injury, accumulated credits under a vacation, sick leave or overtime plan or system maintained by the governmental agency by which they are employed, the appointing authority may provide for the payment of additional benefits to such employees from their accumulated vacation, sick leave or overtime credits. Such additional payments to an employee may not exceed the amount of the total sick leave, vacation or overtime credits accumulated by the employee and shall not result in the payment of a total weekly rate of compensation that exceeds the weekly wage of the employee. Such additional payments to any employee shall be charged against the sick leave, vacation and overtime credits accumulated by such employee. Employees of a county, city or other political subdivision entitled to the benefits of the workers' compensation law may receive additional benefits pursuant to a collective bargaining agreement or other plan, entered into or in effect on or after January 1, 1980, providing payments by or on behalf of the employer and these additional benefits may be unrelated to any accumulated sick leave, holiday or overtime credits and need not be charged against any accumulation; provided that the additional payments shall not result in the payment of a total weekly rate of compensation that exceeds the weekly wage of the employee. The commissioner of the department of labor and industry for the state or the governing body of any county, city or other political subdivision to which the provisions of this chapter apply, may adopt rules and regulations not inconsistent with this chapter for carrying out the provisions hereof relating to payment of additional benefits to employees from accumulated sick leave, vacation or overtime credits or other sources.

Sec. 2. [423A.06] **MINIMUM DISABILITY BENEFIT COVERAGE FOR CERTAIN POLICE OFFICERS AND FIREFIGHTERS.**

Subdivision 1. DISABILITY BENEFIT COVERAGE. Notwithstanding any provision of law, municipal charter, municipal ordinance, municipal resolution, relief association articles of incorporation or relief association bylaws to the contrary, any person who is a member of a covered local police or salaried firefighters relief association enumerated in subdivision 3 where the governing body of the appropriate municipality has approved the modification in the benefit

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plan of the relief association and who becomes disabled in the line of duty, or not in the line of duty, if the benefit is subject to the provisions of this section as specified in subdivision 3, as that disability is defined in and as that disability is determined pursuant to the statute, special law, articles of incorporation or bylaws governing the relief association, shall be entitled to a disability benefit calculated pursuant to subdivision 2.

Subd. 2. DISABILITY BENEFIT AMOUNT. The amount of the monthly disability benefit shall be equal to 40 percent of the salary payable by the municipality on the date of disability to a top grade patrol officer or a top grade firefighter, whichever is applicable. If the service pension payable to retiring members by the relief association is subject to annual automatic post retirement adjustments or is in any fashion escalated, the disability benefit shall also be adjusted or escalated in the same manner, at the same times, and in the same amounts as service pensions are adjusted or escalated.

Subd. 3. COVERED RELIEF ASSOCIATIONS AND COVERED TYPE OF DISABILITY BENEFIT. The provisions of this section shall apply to the active members of a local police or salaried firefighters relief association contained in the following enumeration of covered relief associations if the governing body of the applicable municipality approves the modification in the benefit plan of the relief association specified in this section following consideration of an actuarial valuation which is, or an actuarial estimate based on the most recent actuarial valuation which was, prepared in accordance with sections 356.215 and 356.216, based on the benefit plan of the appropriate local relief association including the modification provided for in this subdivision and files a resolution indicating approval of the modification in the benefit plan with the secretary of state, the commissioner of insurance, and the executive secretary of the legislative commission on pensions and retirement on or before the first day of the tenth full month following the effective date of this section, and shall apply to the type or types of disability benefit coverage indicated:

(a) Chisholm firefighters relief association, disability not in the line of duty benefit;

(b) Crookston firefighters relief association, disability not in the line of duty benefit;

(c) Fairmont police relief association, disability in the line of duty benefit and disability not in the line of duty benefit;

(d) Hibbing firefighters relief association, disability in the line of duty benefit and disability not in the line of duty benefit;

(e) Hibbing police relief association, disability in the line of duty benefit and disability not in the line of duty benefit;

(f) Virginia police relief association, disability in the line of duty benefit and disability not in the line of duty benefit; and

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(g) West St. Paul police relief association, disability in the line of duty benefit and disability not in the line of duty benefit.

Sec. 3. [423A.11] RECOMPUTATION OF A DISABILITY BENEFIT AS A SERVICE PENSION.

Subdivision 1. TERMINATION OF DISABILITY BENEFIT. The disability benefit of any disabled member of a local police or salaried firefighters relief association, whichever is applicable, shall terminate when the disabled member attains:

(a) the minimum age for the receipt of a service pension specified in the articles of incorporation or the bylaws of the relief association, if the disabled member has credit for at least the number of years of service for active duty which would entitle the disabled member to a service pension in an amount equal to the amount of the disability benefit; or

(b) the age attained by the disabled member when the total number of years of service credited for active duty and of years of receipt of a disability benefit equals the number of years of service credit which would entitle the disabled member to a service pension in an amount equal to the amount of the disability benefit, if the disabled member has credit for less than the number of years of service for active duty which would entitle the disabled member to a service pension in an amount equal to the amount of the disability benefit when the disabled member attains the minimum age for the receipt of a service pension specified in the articles of incorporation or the bylaws of the relief association.

Subd. 2. AMOUNT OF DISABILITY BENEFIT RECOMPUTED AS A SERVICE PENSION. After the disability benefit terminates, the disabled member shall be deemed to be a service pensioner and shall be entitled to receive a service pension in an amount equal to the disability benefit without any benefit offset required pursuant to any applicable provision of law, articles of incorporation or bylaws which was payable by the relief association immediately prior to the date when the disability benefit terminated pursuant to this section or the service pension otherwise payable based on the service credit for active duty of the person, whichever amount is greater. The disability benefit recomputed as a service pension shall be subject to any annual automatic post retirement adjustments or escalation applicable to any other service pension payable by the relief association.

Subd. 3. LIMITATION ON DISABILITY BENEFIT COVERAGE. No relief association member who has attained the age and acquired the service credit for termination of a disability benefit specified in subdivision 1 shall be eligible for a disability benefit after that date. If a relief association member who is ineligible for a disability benefit solely pursuant to the limitation set forth in this subdivision becomes permanently unable to perform the duties of a police officer or a firefighter, whichever is applicable, by virtue of a medically determi-

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nale illness or injury, the member shall be eligible to a service pension in an amount equal to the amount of the disability benefit which would have been paid had the person been entitled to a disability benefit, or the amount of the service pension otherwise payable based on the service credit for active duty of the person, whichever is greater.

Sec. 4. [423A.12] SERVICE CREDIT FOR PERIODS OF DISABILITY.

If the articles of incorporation or bylaws of a local police or salaried firefighters relief association, whichever is applicable, so provide, any relief association member who received a disability benefit from the relief association on account of a medically determinable illness or injury which was at the time of the determination of the disability expected to be of permanent duration and who returned to active employment as a police officer or firefighter, whichever is applicable, shall be entitled to receive service credit toward the calculation of a service pension for the period or periods of the receipt of a disability benefit.

The maximum service credit which a relief association member may obtain pursuant to this subdivision shall be that amount of service credit which, when added to the service credit of the member for active duty, equals the amount of service credit which would entitle the member to a service pension in an amount equal to the amount of the disability benefit provided by the relief association.

Sec. 5. [423A.13] LESS HAZARDOUS DUTY EMPLOYMENT FOR MARGINALLY DISABLED POLICE OFFICERS OR FIREFIGHTERS.

Every city in which a local police or salaried firefighters relief association is located shall make every reasonable attempt to provide less hazardous duty employment positions for marginally or less severely disabled police officers or firefighters, which is applicable, in the police department or in the fire department, whichever is applicable, with the same compensation, fringe benefits and other terms and conditions of employment as the person would have otherwise received currently as a regularly employed police officer or firefighter, which is applicable, of the same rank and experience.

Sec. 6. [423A.14] OFFSETS FROM DISABILITY BENEFITS.

Subdivision 1. OCCURRENCE OF OFFSETS. If a police officer or firefighter, whichever is applicable, who is a member of a local police or salaried firefighters relief association becomes disabled and is entitled to receive a disability benefit from the relief association and the disabled person is also entitled to receive benefits pursuant to the workers' compensation law by virtue of that disability, and the total of the disability benefit and the workers' compensation benefits exceeds the salary which the disabled person received as of the date of the disability or the salary currently payable to the same employment position or an employment position which is substantially similar to the employment position which the person held as of the date of the disability, whichever is

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greater, then the disability benefit of that person which is otherwise payable shall be reduced to that amount which, when added to the workers' compensation benefits, after deducting any amounts payable as attorney fees, medical benefits or rehabilitation benefits, does not exceed the salary which the person received as of the date of the disability or the salary currently payable to the same employment position or an employment position which is substantially similar to the employment position which the person held as of the date of the disability, whichever is greater.

Subd. 2. LIMITATION. In no event shall the reduced disability benefit payable pursuant to the requirements of subdivision 1 exceed the amount of the disability benefit otherwise payable by the relief association without reference to subdivision 1 pursuant to the applicable statutes, special laws, articles of incorporation and bylaws.

Subd. 3. NO OFFSET FOR RECOMPUTED DISABILITY BENEFIT. No offset pursuant to this section shall be required after a disability benefit is recomputed as a service pension pursuant to section 3.

Subd. 4. REPORTING REQUIREMENT. Monthly, each city in which a local police or salaried firefighters relief association is located shall notify the secretary of the relief association of the amounts payable to disabled police officers or firefighters, whichever is applicable, during the month pursuant to the workers' compensation law.

Subd. 5. OFFSET INAPPLICABLE IN CERTAIN INSTANCES. If any reduction of benefits payable pursuant to the workers' compensation law by virtue of the receipt of a disability benefit from a local police or salaried firefighters relief association is required pursuant to legislation enacted by the 1982 regular session or by a subsequent regular or special session, the provisions of this section shall not be applicable to any disability benefit recipient or any local police or salaried firefighters relief association.

Sec. 7. [423A.15] EFFECT OF PROVISIONS FOR EXISTING DISABILITY BENEFIT RECIPIENTS.

The provisions of section 2 shall apply to any member of any applicable local relief association in active service on or after the effective date of this section. The provisions of section 3 shall apply to any person receiving a disability benefit from a local relief association on or after the effective date of this section. The provisions of section 4 shall apply to any person who returns to active employment as a police officer or firefighter, whichever is applicable, after receipt of a permanent disability benefit on or after the effective date of this section. The provisions of section 6 shall apply to any person who first commences receipt of a disability benefit after the effective date of this section.

Sec. 8. WEST ST. PAUL FIREFIGHTERS RELIEF ASSOCIATION; ESTABLISHMENT.

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The fire department of the city of West St. Paul shall establish and maintain a firefighters relief association, to be known as "West St. Paul Firefighters Relief Association".

Sec. 9. INCORPORATION; ORGANIZATION; POWERS.

The West St. Paul Firefighters Relief Association shall be incorporated pursuant to Minnesota Statutes, Chapter 317, except that the relief association shall not be required to amend its articles of incorporation or bylaws to conform with Minnesota Statutes, Section 317.08, Subdivision 2, Clause (3), and that the relief association shall be deemed to be a nonprofit corporation without coming within the application of Minnesota Statutes, Section 317.02, Subdivision 5. Except as provided in Minnesota Statutes, Section 423A.01, Subdivision 2, the relief association shall have perpetual existence. The relief association shall be organized, operated and maintained in accordance with its articles of incorporation and bylaws by firefighters who are members of the fire department of the city of West St. Paul and who are members of the relief association. The relief association shall have the power to regulate its own management and affairs and to amend its articles of incorporation and bylaws, except that any amendment to its articles of incorporation or bylaws which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association shall not be effective until ratified by the city council of the city of West St. Paul. The relief association shall have all additional corporate powers which may be necessary or useful, subject to the provisions of this act, other laws pertaining to corporations not inconsistent with this act and other laws applicable to firefighters relief associations.

Sec. 10. MANAGEMENT.

The general management of the relief association shall be vested in a board of trustees composed of five members of the relief association, elected by the membership of the relief association, during the annual meeting of the relief association. The term of office for board of trustee members shall be for one year, commencing with the election, and until the successor in office is elected and duly qualified.

Sec. 11. OFFICERS OF THE RELIEF ASSOCIATION.

The officers of the relief association shall be a president, a vice president, a secretary and a treasurer.

Sec. 12. FUNDS OF THE RELIEF ASSOCIATION.

The assets of the relief association shall be kept in two separate and distinct funds, one to be designated as the special fund of the relief association and the other to be designated as the general fund of the relief association. All moneys received by the relief association from the state of Minnesota and from

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the city of West St. Paul and all moneys representing employee contributions received by the relief association shall be deposited in and credited to the special fund of the relief association and shall be expended only for the purposes authorized pursuant to section 15. All moneys received by the relief association from any other source shall be deposited in and credited to the general fund of the relief association and shall be expended only for purposes authorized pursuant to the bylaws of the relief association.

Sec. 13. MANAGEMENT OF ASSETS.

The relief association shall have the full responsibility for the proper management and control of any assets which are received by the relief association.

Sec. 14. SOURCES OF REVENUE.

The relief association may receive any amounts of money from the following sources:

(1) amounts from the state of Minnesota pursuant to Minnesota Statutes, Sections 69.011 to 69.051 and 423A.02;

(2) amounts received from the city of West St. Paul pursuant to Minnesota Statutes, Section 69.77;

(3) amounts received as investment income on the invested assets of the special or general fund of the relief association;

(4) amounts of employee contributions deducted by the city of West St. Paul from the salaries of relief association members; and

(5) amounts received from private sources, including gifts, charges, rents and entertainments.

Sec. 15. AUTHORIZED DISBURSEMENTS FROM SPECIAL FUND.

Disbursements from the special fund of the relief association may be made for any of the following:

(1) For the payment of service pensions to retired members of the relief association if authorized and paid pursuant to law and the bylaws governing the relief association;

(2) For the payment of temporary or permanent disability retirement benefits to disabled members of the relief association if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief associations;

(3) For the payment of survivor retirement benefits to surviving spouses and surviving children of deceased members of the relief association if authorized

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by and paid pursuant to law and specified in amount in the bylaws governing the relief association;

(4) For the payment of any funeral benefits to the surviving spouse, or if no surviving spouse, the estate, of the deceased member of the relief association if authorized by law and specified in amount in the bylaws governing the relief association;

(5) For the payment of the fees, dues and assessments to the Minnesota state fire department association in order to entitle relief association members to membership in and the benefits of the association; and

(6) For the payment of administrative expenses of the relief association as authorized pursuant to Minnesota Statutes, Section 69.80.

Sec. 16. INVESTMENT OF ASSETS.

The assets of the special fund of the relief association shall be invested only in securities authorized by Minnesota Statutes, Section 69.77, Subdivision 2, Clause (7). The assets of the general fund of the relief association may be invested in any securities authorized by the bylaws of the relief association.

Sec. 17. BOARD OF EXAMINERS.

The relief association shall establish a board of examiners who shall, when requested to do so by the board of trustees of the relief association, make a thorough investigation and report on the following:

(1) on all applications for disability benefits and the appropriate benefit amount to be paid to each applicant;

(2) on all disability benefit recipients;

(3) on all applications for service pensions; and

(4) on all claims for relief. The board of examiners shall be composed of three members, one of whom shall be the president of the relief association. A competent physician, selected by the relief association, shall serve with the board of examiners as the physician of the relief association.

Sec. 18. NON-GARNISHMENT; EXEMPTION FROM PROCESS.

No service pension or retirement benefits paid or payable from the special fund the relief association to any person receiving or entitled to receive a service pension or other retirement benefits shall be subject to garnishment, judgement, execution or other legal process and no person entitled to a service pension or other retirement benefits from the special fund of the relief association shall have the right to assign any service pension or retirement benefit payments, nor shall the relief association have the authority to recognize any assignment or pay over any sum which has been assigned.

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Sec. 19. NO AFFECT ON WORKERS' COMPENSATION ACT.

Sections 8 to 20 shall not be construed as abridging, repealing or amending Minnesota Statutes, Chapter 176.

Sec. 20. VALIDATION OF PRIOR ACTIONS.

Notwithstanding any provision of law to the contrary, any action of the West St. Paul firefighters relief association taken subsequent to September 25, 1947, and prior to the effective date of this section, which was in conformance with the applicable provisions of sections 8 to 20 and the applicable provisions of the duly adopted articles of incorporation and bylaws of the relief association are hereby validated.

Sec. 21. EFFECTIVE DATE.

Sections 1 to 7 are effective the day following final enactment. Sections 8 to 20 are effective upon approval by the city council of the city of West St. Paul and upon compliance with Minnesota Statutes, Section 645.021.

Approved March 23, 1982

CHAPTER 611 — H.F.No. 1743

An act relating to courts; authorizing courts to obtain the presence of persons confined in state institutions for court appearances; proposing new law coded in Minnesota Statutes, Chapter 589.

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

Section 1. [589.35] RELEASE OF INSTITUTIONALIZED PERSONS FOR JUDICIAL PURPOSES.

Subdivision 1. ORDER. Except as provided in chapters 589 and 590, any court requiring the appearance of a person confined in a state correctional facility, mental hospital, or other institution after criminal conviction, civil commitment, or pursuant to court order, may order the confining institution to release the person into the temporary custody of the court. The order shall specify:

- (a) The reason for the person's appearance;
- (b) To whom the confined person may be released; and
- (c) The date and time of the release.

Subd. 2. COSTS. The court shall, without any cost to the releasing institution, determine and implement a cost effective and convenient method for

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