

CHAPTER 359—H.F.No. 2035

An act relating to retirement; police and firefighters' relief associations; standardizing auditing requirements; clarifying various duties and responsibilities in the management of local associations; auditing, financial reporting, and state aid for the Winona police relief association; amending Minnesota Statutes 1984, sections 3.85, subdivision 6; 6.72, subdivision 2; 69.011, subdivision 2; 69.021, subdivisions 4 and 7; 69.051; 69.77; 69.773, subdivision 2; 69.775; 69.80; and 424A.001, subdivision 4, and by adding a subdivision; Minnesota Statutes 1985 Supplement, sections 69.011, subdivision 1; 69.031, subdivision 1; 356.216; and 423A.02, subdivision 1; Laws 1984, chapter 564, section 48; proposing coding for new law in Minnesota Statutes, chapters 6 and 423A.

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

Section 1. Minnesota Statutes 1984, section 3.85, subdivision 6, is amended to read:

Subd. 6. **ASSISTANCE OF OTHER AGENCIES.** The commission may request information from any state officer or agency or any public pension fund or plan as defined in section 356.61, including any volunteer firefighters' relief association to which sections 69.771 to 69.776 applies, in order to assist in carrying out the terms of this section and ~~such~~ the officer or agency, or public pension fund or plan, is authorized and directed to promptly furnish any data requested.

Sec. 2. **[6.495] EXAMINATION OF FIRE AND POLICE RELIEF ASSOCIATIONS.**

Subdivision 1. AUDIT AND EXAMINATIONS. All powers and duties conferred and imposed upon the state auditor with respect to state, county, and first-class city officers, institutions, and property are hereby extended to the various fire and police relief associations in the state. The state auditor shall annually audit the special and general funds of the relief association or, at the request of the board of trustees or the municipality, the state auditor may contract for an annual audit by a certified public accountant. The state auditor may determine that an annual audit is not necessary, in which case the state auditor shall develop a plan for examination of unaudited relief associations, and shall prescribe suitable systems of accounts and budgeting, and forms, books, and instructions concerning the same.

Copies of the written report of the state auditor on the financial condition and accounts of the relief association shall be filed with the board of trustees of the relief association and the governing body of the municipality associated with the relief association. If the report discloses malfeasance, misfeasance, or non-feasance with regard to relief association funds, copies thereof shall be filed with the city attorney or county attorney in the city or county in which the relief association is located, and these officials of the law shall institute proceedings, civil or criminal, as the law and public interest require.

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Subd. 2. COSTS AND FEES. The relief association receiving the audit or examination shall pay to the state auditor's revolving fund the total costs and expenses of the audit or examination, including the salaries paid to the auditors while actually engaged in making the audit or examination.

Subd. 3. REPORT TO COMMISSIONER OF REVENUE. The state auditor shall file with the commissioner of revenue a financial compliance report certifying for each relief association:

(1) the completion of the annual financial report required pursuant to section 69.051 and the auditing or certification of those financial reports pursuant to subdivision 1; and

(2) the receipt of any actuarial valuations required pursuant to section 69.77 or 69.773.

Sec. 3. Minnesota Statutes 1984, section 6.72, subdivision 2, is amended to read:

Subd. 2. CONTENTS OF REPORT. The report shall include the aggregate totals for all volunteer firefighters' relief associations directly associated with the municipal fire departments and all volunteer firefighters' relief associations subsidiary to independent nonprofit firefighting corporations, the aggregate totals by the various benefit types and the individual results for each volunteer firefighters' relief association listed by various benefit types specified in subdivision 3. The following items shall be reported in each instance:

- (1) amount of accrued liability,
- (2) amount of assets,
- (3) amount of surplus or unfunded accrued liability,
- (4) funding ratio,
- (5) amount of annual accruing liability or normal cost,
- (6) amount of annual required contribution to amortize the unfunded accrued liability,
- (7) amount of total required contribution,
- (8) amount of fire state aid,
- (9) amount of any municipal contributions,
- (10) amount of administrative expenses,
- (11) amount of service pension disbursements,
- (12) amount of other retirement benefit disbursements,

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- (13) number of active members,
- (14) number of retired members,
- (15) number of deferred members,
- (16) amount of fidelity bond of secretary and treasurer,
- (17) amount of lump sum or monthly service pension accrued per year of service credit,
- (18) minimum retirement age required for commencement of a service pension,
- (19) minimum years of active service credit required for commencement of service pension,
- (20) minimum years of active membership credit required for commencement of service pension,
- (21) type and amount of other retirement benefits.

Sec. 4. Minnesota Statutes 1985 Supplement, section 69.011, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** Unless the language or context clearly indicates that a different meaning is intended, the following words and terms shall for the purposes of this chapter and chapters 423, 423A, 424 and 424A have the meanings ascribed to them:

- (a) "Commissioner" means the commissioner of revenue.
- (b) "Municipality" means any home rule charter or statutory city, organized town or park district subject to chapter 398, and the University of Minnesota.
- (c) "Minnesota Firetown Premium Report" means a form prescribed by the commissioner containing space for reporting by insurers of fire, lightning, sprinkler leakage and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends.
- (d) "Firetown" means the area serviced by any municipality having a qualified fire department or a qualified incorporated fire department having a subsidiary volunteer firefighters relief association.
- (e) "Assessed property valuation" means latest available assessed value of all property in a taxing jurisdiction, whether the property is subject to taxation, or exempt from ad valorem taxation obtained from information which appears on abstracts filed with the commissioner of revenue or equalized by the state board of equalization.
- (f) "Minnesota Aid to Police Premium Report" means a form prescribed by

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the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in auto liability-bodily injury, auto liability-property damage, and auto physical damage as reported in the Minnesota business schedule of the fire and casualty insurance companies annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or regulations less return premiums and dividends.

(g) "Peace officer" means any person:

(1) whose primary source of income derived from wages is from direct employment by a municipality or county as a law enforcement officer on a full-time basis of not less than 30 hours per week;

(2) who has been employed for a minimum of six months prior to December 31 preceding the date of the current year's certification pursuant to subdivision 2, clause (b);

(3) who is sworn to enforce the general criminal laws of the state and local ordinances;

(4) who is licensed by the peace officers standards and training board and is authorized to arrest with a warrant; and

(5) who is a member of a local police relief association to which section 69.77 applies or the public employees police and fire fund.

(h) "Full-time equivalent number of peace officers providing contract service" means the integral or fractional number of peace officers which would be necessary to provide the contract service if all peace officers providing service were employed on a full-time basis as defined by the employing unit and the municipality receiving the contract service.

(i) "Retirement benefits other than a service pension" means any disbursement authorized pursuant to section ~~424.05~~ 424A.05, subdivision 3, clauses (2), (3) and (4).

(j) "Municipal clerk, municipal clerk-treasurer or county auditor" means the person who was elected or appointed to the specified position or, in the absence of the person, another person who is designated by the applicable governing body. In a park district the clerk is the secretary of the board of park district commissioners. In the case of the University of Minnesota, the clerk is that official designated by the board of regents.

Sec. 5. Minnesota Statutes 1984, section 69.011, subdivision 2, is amended to read:

Subd. 2. **QUALIFICATION FOR FIRE OR POLICE STATE AID.** (a) In

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order to qualify to receive fire state aid, on or before ~~June~~ July 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, or the secretary of each independent nonprofit firefighting corporation having a subsidiary incorporated firefighter's relief association whichever is applicable, and the secretary and the treasurer of the firefighter's relief association, shall jointly certify the existence of the 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 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 ~~June~~ July 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 ~~June~~ July 1 annually, the clerk of each municipality and the auditor of each county employing one or more peace officers as defined in subdivision 1, clause (h), shall certify the number of such peace 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 peace officer for the entire year. For purposes of sections 69.011 to 69.051, employment of a peace officer shall commence when the peace officer is entered on the payroll of the respective municipal police department or county sheriff's department. No peace officer shall be included in the certification of the number of peace officers by more than one municipality or county for the same month.

Sec. 6. Minnesota Statutes 1984, section 69.021, subdivision 4, is amended to read:

Subd. 4. **DETERMINATION OF QUALIFIED STATE AID RECIPIENTS; CERTIFICATION TO COMMISSIONER OF FINANCE.** 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~~

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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 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 determine qualification upon receipt of (1) the fire department; personnel and equipment certification or the police department and qualified peace officers certificate, whichever is applicable, required pursuant to section 69.011, (2) the annual financial compliance report required pursuant to section 69.051 2, 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 (3) any other relevant information which comes to the attention of the commissioner. Upon completion of the determination, on or before ~~June~~ September 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 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. 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. 7. Minnesota Statutes 1984, section 69.021, subdivision 7, is amended to read:

Subd. 7. APPORTIONMENT OF AID TO MUNICIPALITIES AND FIREFIGHTER'S RELIEF ASSOCIATIONS BY COUNTY AUDITOR.

(1) The county auditor shall apportion the state aid received by him relative to the premiums reported on the Minnesota Firetown Premium Reports filed pursuant to this chapter to each municipality and/or firefighter's relief association certified to him by the commissioner in the same manner that state aid is apportioned to the counties, one-half in proportion to the population and one-half in proportion to the assessed property valuation of the fire towns in the county for which aid is proportioned. Necessary adjustments shall be made to subsequent apportionments.

In the case of municipalities or independent fire departments qualifying for the aid the county auditor shall calculate the state aid for the municipality or relief association on the basis of the population and the property valuation of the area furnished fire protection service by the fire department as evidenced by duly executed and valid fire service agreements filed with him. If one or more fire departments are furnishing contracted fire service to a city, town or township only the population and valuation of the area served by each fire department shall be considered in calculating the state aid and the fire departments

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furnishing service shall enter into an agreement apportioning among themselves the percent of the population and the assessed property valuation of each service area. Agreement shall be in writing and filed with the commissioner in duplicate. The commissioner shall forward one copy of the agreement to the county auditor of the county wherein the fire department is located and retain one copy.

~~In the case of cities of the first and second class the state aid calculated shall be paid directly to the treasurer of the relief association. In the case of all other municipalities and independent fire department relief associations or retirement plans~~ The aid shall be paid to the treasurer of the municipality where the fire department is located and the treasurer of the municipality shall within 30 days transmit the aid to the relief association if the relief association has filed a financial report with the treasurer of the municipality and has met all other statutory provisions pertaining to the aid apportionment.

The county auditor and commissioner are hereby empowered to make rules and regulations to permit the administration of the provisions of this section.

(2) The county auditor shall apportion the state police aid received by him to each municipality and to the county in the following manner:

(a) For all municipalities maintaining police departments and the county, the state aid shall be distributed by the county auditor in proportion to the total number of peace officers, as determined pursuant to section 69.011, subdivision 1, clause (g), and subdivision 2, clause (b), employed by each municipality and by the county for 12 calendar months and the proportional or fractional number who were employed less than 12 months;

(b) For each municipality which contracts with the county for police service, a proportionate amount of the state aid distributed to the county based on the full time equivalent number of peace officers providing contract service shall be credited against the municipality's contract obligation;

(c) For each municipality which contracts with another municipality for police service, a proportionate amount of the state aid distributed to the municipality providing contract service based on the full time equivalent number of peace officers providing contract service on a full time equivalent basis shall be credited against the contract obligation of the municipality receiving contract service;

(d) No municipality entitled to receive police state aid shall be apportioned less police state aid for any year under Laws 1976, Chapter 315, than the amount which was apportioned to it for calendar year 1975 based on premiums reported to the commissioner for calendar year 1974; provided, the amount of police state aid to other municipalities within the county and to the county shall be adjusted in proportion to the total number of peace officers in the municipalities and the county, so that the amount of police state aid apportioned shall not exceed the amount of police state aid available for apportionment.

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The county auditor and commissioner are hereby empowered to make rules and regulations to permit the administration of the provisions of this section.

Sec. 8. Minnesota Statutes 1985 Supplement, section 69.031, subdivision 1, is amended to read:

Subdivision 1. **COMMISSIONER OF FINANCE'S WARRANT.** The commissioner of finance shall issue to the auditor of each county certified to him by the commissioner his warrant for an amount equal to the amount certified to by the commissioner pursuant to section 69.021. The amount due to a county and not paid by September 1 accrues interest at the rate of one percent for each month or part of a month the amount remains unpaid, beginning the preceding ~~June~~ July 1.

Sec. 9. Minnesota Statutes 1984, section 69.051, is amended to read:

69.051 FINANCIAL REPORT, BOND, EXAMINATION.

Subdivision 1. **FINANCIAL REPORT OF ASSOCIATION AND AUDIT.** ~~The secretary and the treasurer board of each salaried firefighters relief association or and police relief association and of each volunteer firefighters' relief association with assets of at least \$200,000 or liabilities of at least \$200,000, according to the most recent actuarial valuation or financial report if no valuation is required, 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 peace officers certificate required pursuant to section 69.011, subdivision 2, clause (b); whichever is applicable; annually;~~

(a) Prepare and sign jointly a detailed financial report of the receipts of, disbursements from and balances in covering the special and general funds of the relief association for the preceding calendar fiscal year ending December 31, on a form prescribed by the commissioner state auditor. The financial report shall contain any information financial statements and disclosures which the commissioner deems necessary to reveal present the true financial condition of the relief association and the results of relief association operations in conformity with generally accepted accounting principles and in 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 June 1 annually. The commissioner shall forward one copy to the county auditor of the county wherein the municipality is located.

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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;

(b) File the financial report in its office for public inspection and present it to the city council after the close of the fiscal year. One copy of the financial report shall be furnished to the state auditor after the close of the fiscal year; and

(c) Submit to the state auditor audited financial statements which have been attested to by a certified public accountant, public accountant, or the state auditor within 180 days after the close of the fiscal year, except that the state auditor may upon request of a city and a showing of inability to conform, extend the deadline. The state auditor may accept this report in lieu of the report required in clause (b) above.

Subd. 1a. FINANCIAL STATEMENT. The board of each volunteer firefighters' relief association and each independent nonprofit firefighting corporation with assets of less than \$200,000 and liabilities less than \$200,000, according to the most recent financial report, shall:

(a) Prepare a detailed statement of the financial affairs of the relief association's special and general funds in the style and form prescribed by the state auditor, for the preceding fiscal year showing all money received, with the sources, and respective amounts thereof; all disbursements for which orders have been drawn upon the treasurer; all accounts payable; all accounts receivable; the amount of money remaining in the treasury; total assets including a listing of all investments; the accrued liabilities; and all items necessary to show accurately the revenues and expenditures and financial position of the relief association;

(b) The detailed financial statement 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 examination 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;

(c) The statement shall be countersigned by the municipal clerk or clerk-

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treasurer of the municipality, or, where applicable, 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;

(d) File the statement in the relief association office for public inspection and present it to the city council within 45 days after the close of the fiscal year; and

(e) Submit within 90 days after the close of the fiscal year a copy of the statement to the state auditor.

Subd. 1b. QUALIFICATION. 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.

Subd. 2. TREASURERS BOND. No treasurer of a relief association governed by section 69.77 shall enter upon his duties until he has given the association a good and sufficient bond in an amount equal to at least ten percent of the assets of the relief association; however, the amount of the bond need not exceed \$500,000.

Subd. 3. REPORT BY CERTAIN MUNICIPALITIES. Each municipality which has an organized fire department but which does not have a firefighter's relief association shall annually prepare a detailed financial report of the receipts and disbursements by the municipality for fire protection service during the preceding calendar year, on a form prescribed by the commissioner state auditor.

The financial report shall contain any information which the commissioner state auditor 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 state auditor on or before June July 1 annually. The commissioner state auditor shall forward one copy to the county auditor of the county wherein the municipality is located. The municipality 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.

Subd. 4. EXAMINATION NOTIFICATION BY COMMISSIONER AND STATE AUDITOR. The detailed financial report of relief associations and municipal financial reports for fire protection may be examined by the commissioner,

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and when he finds that it appears the money, or any part thereof, paid under the provisions of this chapter or chapter 424 has been or is being expended for an unauthorized purpose, he state auditor in performing an audit or examination shall notify the state auditor of the fact. The state auditor may examine the financial reports and records of the firefighter's relief association and municipality and when he finds that the money, or any part thereof, paid under the provisions of this chapter or chapter 424, has been or is being expended for an unauthorized purpose he shall order the funds restored and take whatever steps he deems necessary to assure restoration. No further aid shall be paid to the municipality until the funds are restored. The relief association shall be liable to the state for the total cost and expenses of such examination legislative commission on pensions and retirement if the audit or examination reveals malfeasance, misfeasance, or nonfeasance in office.

The commissioner shall notify the legislative commission on pensions and retirement if the state auditor has not filed the required financial compliance reports by July 1.

Sec. 10. Minnesota Statutes 1984, section 69.77, is amended to read:

69.77 POLICE AND FIREFIGHTERS' RELIEF ASSOCIATION GUIDELINES ACT.

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 firefighter, 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 ~~commerce~~ shall not include in the apportionment of police or fire state aid to the county auditor pursuant to section 69.021, subdivision 6, any municipality 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 state auditor and ~~commissioner of commerce~~ 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.

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Subd. 1a. The provisions of this section shall apply to the following retirement funds:

(1) Any police pension fund or relief association which is established pursuant to chapter 423;

(2) Any salaried firefighters pension fund or relief association which is established pursuant to chapter 424;

(3) Any pension fund or relief association which is established pursuant to this chapter which has five or more members who receive compensation for services rendered in the employment covered by the pension fund or relief association and which provides for retirement coverage or a service pension based on the compensation paid to members for that service;

(4) Any pension fund or relief association which is established and operates in whole or in part pursuant to special legislation and which provides for retirement coverage or a service pension based on the compensation paid to members for service as police officers or firefighters or which provides for retirement coverage or a service pension to volunteer firefighters based on the compensation paid to or the service pension provided by a pension fund or relief association located in the same municipality for police officers employed by the municipality but not covered by clauses (1), (2) or (3); and

(5) Any governmental subdivision retirement fund established pursuant to any law providing for retirement coverage to police officers or salaried firefighters or a retirement benefit to their dependents and not otherwise described in this subdivision.

Subd. 2. The penalty provided for in subdivision 1 shall not apply to a relief association enumerated in subdivision 1a if the ~~following~~ requirements of subdivisions 2a to 2h are met:

(1) Subd. 2a. Each member of the relief association ~~pays~~ shall pay into the special fund of the association during a year of covered service, a contribution for retirement coverage including survivorship benefits of not less than eight percent of the maximum rate of salary upon which retirement coverage is credited and service pension and retirement benefit amounts are determined. The member contributions shall be made by payroll deduction from the salary of the member by the municipality, and shall be transmitted by the municipality to the relief association as soon as practical. The relief association shall deposit the member contribution to the credit of the special fund of the relief association. The member contribution requirement specified in this clause shall not apply to any members who are volunteer firefighters.

(2) Subd. 2b. The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this clause. The financial requirements of the relief association and the

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minimum obligation of the municipality shall be determined on or before the submission date established by the municipality pursuant to ~~clause (3)~~ subdivision 2c.

The financial requirements of the relief association for the following calendar year shall be based on the most recent actuarial valuation or survey prepared in accordance with sections 356.215, subdivision 4 and 356.216, as required pursuant to ~~clause (8)~~ subdivision 2h. In the event that an actuarial estimate is prepared by the actuary of the relief association as part of obtaining a modification of the benefit plan of the relief association and the modification is implemented, the actuarial estimate shall be used in calculating the financial requirements of the relief association.

If the relief association has an unfunded accrued liability as reported in the most recent actuarial valuation or survey, the total of the amounts calculated pursuant to clauses (a) and (b) shall constitute the financial requirements of the relief association for the following year. If the relief association does not have an unfunded accrued liability as reported in the most recent actuarial valuation or survey the amount calculated pursuant to subclause (a) shall constitute the financial requirements of the relief association for the following year.

(a) The normal level cost requirement for the following year, expressed as a dollar amount, which shall be determined by applying the normal level cost of the relief association as reported in the actuarial valuation or survey and expressed as a percentage of covered payroll to the estimated covered payroll of the active membership of the relief association, including any projected increase in the active membership, for the following year.

(b) To the dollar amount of normal cost thus determined shall be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded accrued liability by December 31, 2010, as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the rate specified in section 356.215, subdivision 4; ~~clause (4)~~ 4d. The amortization date specified in this subclause shall apply to all local police or salaried firefighters relief associations and shall supersede any amortization date specified in any applicable special law.

The minimum obligation of the municipality shall be an amount equal to the financial requirements of the relief association reduced by the estimated amount of member contributions from covered salary anticipated for the following calendar year and the estimated amounts from the applicable state aid program established pursuant to sections 69.011 to 69.051 anticipated as receivable by the relief association after any allocation pursuant to section 69.031, subdivision 5, clause (2), subclause (c) or 423A.01, subdivision 2, clause (6), and from the local police and salaried firefighters' relief association amortization aid program established pursuant to section 423A.02 anticipated for the following calendar year.

~~(3)~~ Subd. 2c. The officers of the relief association shall submit determina-

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tion of the financial requirements of the relief association and of the minimum obligation of the municipality to the governing body on or before the date established by the municipality which shall not be earlier than August 1 and shall not be later than September 1 of each year. The governing body of the municipality shall ascertain whether or not the determinations were prepared in accordance with law.

(4) Subd. 2d. The municipality shall provide for and shall pay each year at least the amount of the minimum obligation of the municipality to the relief association. If there is any deficiency in the municipal payment to meet the minimum obligation of the municipality as of the end of any calendar year, the amount of the deficiency shall be added to the minimum obligation of the municipality for the following year calculated pursuant to ~~clause (2)~~ subdivision 2b and shall include interest at the rate of six percent per annum compounded from the date that the municipality was required to make payment pursuant to this clause until the date that the municipality actually makes the required payment.

(5) Subd. 2e. The municipality shall provide in the annual municipal budget for at least the minimum obligation of the municipality calculated pursuant to ~~clause (2)~~ subdivision 2b. The municipality may levy taxes for the payment of the minimum obligation of the municipality without any limitation as to rate or amount and irrespective of limitations imposed by other provisions of law upon the rate or amount of taxation when the balance of the special fund or any fund of the relief association has attained a specified minimum asset level. In addition, any taxes levied pursuant to this section shall not cause the amount or rate of other taxes levied in that year or to be levied in a subsequent year by the municipality which are subject to a limitation as to rate or amount to be reduced. If the municipality does not include the full amount of the minimum obligation of the municipality in the levy that the municipality certified to the county auditor in any year, the officers of the relief association shall certify the amount of any deficiency to the county auditor. Upon verifying the existence of any deficiency in the levy certified by the municipality, the county auditor shall spread a levy over the taxable property of the municipality in the amount of the deficiency certified to by the officers of the relief association.

(6) Subd. 2f. Any sums of money paid by the municipality to the relief association in excess of the minimum obligation of the municipality in any year shall be used to amortize any unfunded liabilities of the relief association.

(7) Subd. 2g. The funds of the association shall be invested in securities which are proper investments pursuant to section 11A.24, ~~except that up to \$10,000 may be invested in the stock of any one corporation in any account of such small size that the five percent stock limitation specified in section 11A.24, subdivision 5 would necessitate a lesser investment.~~ Notwithstanding the foregoing, up to 75 percent of the market value of the assets of the fund may be invested in open-end investment companies registered under the federal Investment Company Act of 1940, if the portfolio investments of the investment

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companies comply with the type of securities authorized for investment by section 11A.24, subdivisions 2 to 5. ~~The association may also invest funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust, provided that the amount of all investments in real property shall not exceed ten percent of the market value of the association's fund.~~ Securities held by the association before ~~July 1, 1974~~ the effective date of this act, which do not meet the requirements of this paragraph may be retained after that date if they were proper investments for the association on ~~April 28, 1969~~ that date.

The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify funds for investment by the state board under the provisions of section 11A.17, provided that there be no limit to the amount which may be invested in the income share account, in the bond account, or in the fixed-return account, and that up to 20 percent of that portion of the assets of the association invested in the Minnesota supplemental investment fund may be invested in the growth share account. The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm shall use the formula or formulas developed by the state board pursuant to section 11A.04, clause (11).

(8) Subd. 2h. The association shall procure an actuarial valuation showing the condition of the special fund of the relief association pursuant to sections 356.215 and 356.216 as of December 31 of every year. A copy of the actuarial survey shall be filed with the director of the legislative reference library, the governing body of the municipality in which the association is organized, the executive ~~secretary~~ director of the legislative commission on pensions and retirement, and the ~~commissioner of commerce~~ state auditor, not later than ~~June~~ July 1 of the following year.

~~Subd. 2a~~ 2i. Any amendment to the bylaws or articles of incorporation of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from any police or firefighters relief association enumerated in subdivision 1a shall not be effective until it is ratified by the municipality in which the relief association is located. The officers of the relief association shall not seek municipal ratification prior to obtaining either an updated actuarial valuation including the proposed amendment or an estimate of the expected actuarial impact of the proposed amendment prepared by the actuary of the relief association and submitting that actuarial valuation or estimate to the clerk of the municipality.

Subd. 3. This section may be cited as "The Police and Firefighters' Relief Associations Guidelines Act of 1969."

Sec. 11. Minnesota Statutes 1984, section 69.773, subdivision 2, is amended to read:

Subd. 2. DETERMINATION OF ACTUARIAL CONDITION AND FUND-

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ING COSTS. Each relief association to which this section applies shall procure an actuarial valuation showing the condition of the special fund of the relief association as of December 31, 1978 and at least as of December 31 every four years thereafter. The valuation shall be prepared in accordance with the provisions of section 356.216, except that the figure for normal cost shall be expressed as a level dollar amount, and the amortization contribution shall be the level dollar amount calculated to amortize any current unfunded accrued liability by at least the date of full funding specified in subdivision 4, clause (b). Each valuation shall be filed with the governing body of the municipality in which the relief association is located and with the ~~commissioner of commerce~~ state auditor, not later than ~~June~~ July 1 of the year next following the date as of which the actuarial valuation is prepared. Any relief association which is operating under a special law which requires that actuarial valuations be procured at least every four years and be prepared in accordance with applicable actuarial standards set forth in statute may continue to have actuarial valuations made according to the time schedule set forth in the special legislation subject to the provisions of subdivision 3. ~~The relief association shall also procure a quadrennial experience study pursuant to section 356.216 to accompany the actuarial valuation every four years. With the permission of the commissioner of commerce, a relief association may have their quadrennial experience study prepared by a qualified actuary jointly with the experience studies of other relief associations and reported to the commissioner as part of a joint report by the qualified actuary not later than December 1 of the year next following the date as of which the actuarial valuation is prepared.~~

Sec. 12. Minnesota Statutes 1984, section 69.775, is amended to read:

69.775 INVESTMENTS.

The special fund assets of the relief associations governed by sections 69.771 to 69.776 shall be invested in securities which are proper investments pursuant to section 11A.24; ~~except that up to five percent of the special fund assets, or a minimum of \$10,000, may be invested in the stock of any one corporation.~~ Notwithstanding the foregoing, up to 75 percent of the market value of the assets of the fund may be invested in open-end investment companies registered under the federal Investment Company Act of 1940, if the portfolio investments of the investment companies comply with the type of securities authorized for investment by section 11A.24, subdivisions 2 to 5. Securities held by the associations before ~~January 1, 1972~~ the effective date of this act, which do not meet the requirements of this section may be retained after that date if they were proper investments for the association on ~~May 14, 1971~~ that date. The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify funds for investment by the state board under the provisions of section 11A.17, provided that there be no limit to the amount which may be invested in the income share account, in the bond account, or in the fixed-return account, and that up to 20 percent of that portion of the assets of the association invested in the Minnesota supplemental investment fund may be invested in the growth share account.

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Sec. 13. Minnesota Statutes 1984, section 69.80, is amended to read:

69.80 AUTHORIZED ADMINISTRATIVE EXPENSES.

Notwithstanding any provision of law to the contrary, the payment of the following necessary, reasonable and direct expenses of maintaining, protecting and administering the special fund, when provided for in the bylaws of the association and approved by the board of trustees, shall constitute authorized administrative expenses of a police, salaried firefighters or volunteer firefighters relief association organized under any law of this state:

(a) Office expense including but not limited to rent, utilities, equipment, supplies, postage, periodical subscriptions, furniture, fixtures and salaries of administrative personnel;

(b) Salaries and itemized expenses of the president, secretary and treasurer of the association, or their designees, incurred as a result of fulfilling their responsibilities as administrators of the special fund;

(c) Tuition, registration fees, organizational dues and other authorized expenses of the officers or members of the board of trustees incurred in attending educational conferences, seminars or classes relating to the administration of the relief association;

(d) Audit, actuarial, medical, legal and investment and performance evaluation expenses;

(e) Reimbursement to the officers and members of the board of trustees, or their designees, for reasonable and necessary expenses actually paid and incurred in the performance of their duties as officers or members of the board; and

(f) Premiums on fiduciary liability insurance and official bonds for the officers, members of the board of trustees and employees of the relief association.

Any other expenses of the relief association shall be paid from the general fund of the association, if one exists. If a relief association has only one fund, that fund shall be deemed to be the special fund for purposes of this section. If a relief association has a special fund and a general fund, and any expense of the relief association is directly related to the purposes for which both funds were established, the payment of that expense shall be apportioned between the two funds on the basis of the benefits derived by each fund.

Sec. 14. Minnesota Statutes 1985 Supplement, section 356.216, is amended to read:

356.216 CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.

The provisions of section 356.215, governing the contents of actuarial valu-

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ations and experience studies shall apply to any local police or fire pension fund or relief association required to make an actuarial report under this section except as follows:

(1) in calculating normal cost and other requirements expressed as a level percentage of covered payroll, the salaries used in computing covered payroll shall be the maximum rate of salary from which retirement and survivorship credits and amounts of benefits are determined and from which member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 4, clause (7), the appropriate amortization target date specified in section 69.77, subdivision 2, ~~clause (2)~~ 2b, or 69.773, subdivision 4, clause (b), shall be used in calculating the required amortization contribution;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 4, clause (10), the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members shall be reported;

(4) actuarial valuations required pursuant to section 69.773, subdivision 2 shall be made at least every four years and actuarial valuations required pursuant to section 69.77 shall be made annually; and

(5) the actuarial balance sheet showing accrued assets, accrued liabilities, and the deficit from full funding of liabilities (unfunded accrued liability) shall include the following required reserves:

(a) For active members

1. Retirement benefits
2. Disability benefits
3. Refund liability due to death or withdrawal
4. Survivors' benefits

(b) For deferred annuitants' benefits

(c) For former members without vested rights

(d) For annuitants

1. Retirement annuities
2. Disability annuities
3. Surviving spouses' annuities
4. Surviving children's annuities

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(6) actuarial valuations shall be due not later than the first day of the seventh month after the end of the fiscal year which the valuation covers.

In addition to the above required reserves, separate items shall be shown for additional benefits, if any, which may not be appropriately included in the reserves listed above.

Sec. 15. [423A.21] RECORDS; BOARD REPRESENTATION; FIDUCIARY RESPONSIBILITY.

Subdivision 1. RECORDS. A local relief association is subject to the provisions of chapter 6 relating to audits by the state auditor, the provisions of chapter 13, and the provisions of sections 15.17, 138.163, and 138.17 relating to the creation and retention of official and public records. The records of the special fund and the bylaws of the relief association shall be public and shall be open for inspection by any member of the relief association, any officer or employee of the state or the municipality, or any member of the public, at reasonable times and places.

Subd. 2. MUNICIPAL REPRESENTATION. Notwithstanding any other law, the membership of the board of trustees shall include at least two members appointed by the municipality. The members appointed by the municipality shall have all the rights and privileges of board membership including full voting powers. No relief association shall reduce the number of municipal representatives on its board by reason of this subdivision.

Notwithstanding any law which designates certain officials as ex officio members of a board of trustees, the municipality may appoint the same number of members as it is authorized to have on the board in the laws governing the relief association as of the effective date of this act, but the municipality may appoint to those positions any individuals it so chooses.

Whenever the board of trustees appoints an investment subcommittee at least one of the municipal representatives must be a member of that investment subcommittee.

Subd. 3. PUBLIC OFFICERS. The officers and trustees of a local relief association are public officers for purposes of sections 471.87 and 609.43.

Subd. 4. FIDUCIARY RESPONSIBILITY. In the discharge of their respective duties, the officers and trustees shall be held to the standard of care enumerated in section 11A.09.

Each member of the board is a fiduciary. No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:

(1) sale or exchange or leasing of any real property between the relief association and a board member;

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(2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;

(3) furnishing of goods, services, or facilities between the relief association and a board member; or

(4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Sec. 16. [423A.22] **REPORTS; FINANCIAL TRANSACTIONS.**

Subdivision 1. REPORTS. The board shall report to the municipality at least annually regarding each of the following:

(1) the required municipal support for the relief association required pursuant to section 69.77;

(2) the financial condition of the relief association according to the audited financial statements required pursuant to section 69.051;

(3) investment objectives and performance;

(4) surety bond amounts for its secretary and treasurer required pursuant to section 69.051, subdivision 4; and

(5) the annual administrative budget for relief associations.

Subd. 2. RELIEF ASSOCIATION RECEIPTS AND DISBURSEMENTS.
An official designated by the municipality shall receive and deposit all money received for the special fund of the relief association and may countersign all disbursements from the accounts of the special fund of the relief association, but must countersign all disbursements of at least \$5,000. If an institution with trustee powers is hired to administer the financial affairs of the relief association, an official designated by the municipality must approve the trustee agreement and shall countersign authorizations for disbursements of at least \$5,000.

Sec. 17. Minnesota Statutes 1985 Supplement, section 423A.02, subdivision 1, is amended to read:

Subdivision 1. Any municipality in which is located a local police or salaried firefighters' relief association to which the provisions of section 69.77, apply, unless the municipality has adopted a municipal resolution retaining the local relief association pursuant to section 423A.01, subdivision 1, shall be entitled upon application as required by the commissioner of ~~finance~~ revenue to receive local police and salaried firefighters' relief association amortization state aid if the municipality and the appropriate relief association both comply with the applicable provisions of sections 69.031, subdivision 5, 69.051, subdivisions 1 and 3, and 69.77. The amount of amortization state aid to which a municipal-

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ity is entitled annually shall be an amount equal to the level annual dollar amount required to amortize, by December 31, 2010, the unfunded accrued liability of the special fund of the appropriate relief association as reported in the December 31, 1978, actuarial valuation of the relief association prepared pursuant to Minnesota Statutes, sections 356.215 and 356.216, reduced by the dollar amount required to pay the interest on the unfunded accrued liability of the special fund of the relief association for calendar year 1981 set at the rate specified in Minnesota Statutes 1978, section 356.215, subdivision 4, clause (4).

Payment of amortization state aid to municipalities shall be made directly to the municipalities involved in four equal installments on March 15, July 15, September 15 and November 15 annually. Upon receipt of amortization state aid, the municipal treasurer shall transmit the aid amount to the treasurer of the local relief association for immediate deposit in the special fund of the relief association. The commissioner of ~~finance~~ revenue shall prescribe and periodically revise the form for and content of the application for the amortization state aid. The amounts required to pay the amortization state aid are hereby annually appropriated from the general fund to the commissioner of ~~finance~~ revenue.

Sec. 18. Minnesota Statutes 1984, section 424A.001, subdivision 4, is amended to read:

Subd. 4. **RELIEF ASSOCIATION.** "Relief association" means (a) a 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, governed by chapters 69 and 424A, and directly associated with a fire department established by municipal ordinance; or (b) 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, governed by chapter 424A, and operating exclusively for firefighting purposes. A relief association is a governmental entity that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response.

Sec. 19. Minnesota Statutes 1984, section 424A.001, is amended by adding a subdivision to read:

Subd. 7. FIDUCIARY RESPONSIBILITY. In the discharge of their respective duties, the officers and trustees shall be held to the standard of care enumerated in section 11A.09.

Each member of the board is a fiduciary. No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:

(1) sale or exchange or leasing of any real property between the relief association and a board member;

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(2) lending of money or other extension of credit between the relief association and a board member;

(3) furnishing of goods, services, or facilities between the relief association and a board member or member of the relief association; or

(4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Sec. 20. Laws 1984, chapter 564, section 48, is amended to read:

Sec. 48. ANNUAL APPROPRIATION.

There is appropriated and transferred from the general fund to the commissioner of ~~finance~~ revenue, \$1,000,000 annually for distribution among those local police and salaried firefighters relief associations that receive amortization state aid according to Minnesota Statutes, section 423A.02. Distribution shall be made according to that proportion the unfunded accrued liability of each relief association bears to the total unfunded accrued liabilities of all relief associations as reported in the most recent actuarial valuations of the relief associations that receive amortization state aid according to section 423A.02. Moneys shall be distributed to the relief associations at the same time fire and police department state aid is distributed according to section 69.021.

Sec. 21. AUTHORIZATION TO INCREASE BOARD SIZE.

Any relief association that has a board with fewer than two municipal members as of the effective date of this act is authorized to increase the size of its board up to two positions to include municipal representatives. No municipal approval of an amendment of the bylaws to increase the size of the board is required.

Any relief association that increases the size of its board pursuant to this section should send a copy of the bylaws amendment to the executive director of the legislative commission on pensions and retirement.

Sec. 22. CITY OBLIGATION TO RELIEF ASSOCIATION.

Notwithstanding the provisions of section 69.77, in 1986 the city of Winona shall contribute to the Winona police relief association an amount equal to the amount the city contributed to the relief association in 1985.

Sec. 23. STATE AUDITOR TO AUDIT RELIEF ASSOCIATION.

The state auditor shall perform a comprehensive audit of the financial transactions and financial position of the Winona police relief association for the years 1984 and 1985.

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The auditor shall determine the amount of assets held by the relief association and shall report the total to the actuary for the relief association.

The auditor shall send a copy of the audit report to the city, to the commissioner of finance, and to the legislative commission on pensions and retirement.

Sec. 24. ACTUARY TO DETERMINE MINIMUM OBLIGATION.

The actuary for the relief association shall determine, according to section 69.77, the minimum obligation of the city for the year 1987 based on the amount of total assets certified by the state auditor in the examination of 1985 financial statements of the relief association.

In addition to the filing of reports required in section 356.215, subdivision 3, the actuary for the relief association shall send a copy of the December 31, 1985, valuation report to the commissioner of finance.

Sec. 25. STATE AIDS FOR WINONA.

Upon receipt of the state auditor's report of the relief association for calendar year 1985 and of the valuation report for December 31, 1985, the commissioner of finance shall issue warrants to the city of Winona in the amounts equal to the amounts of police state aid, amortization state aid, and supplemental amortization state aid withheld by the department of finance since August 26, 1985, plus interest at a rate of six percent per annum from the date each state aid payment was withheld.

Sec. 26. INSTRUCTIONS TO REVISOR.

The revisor of statutes is directed to change the words "executive secretary of the legislative commission on pensions and retirement" wherever they appear in Minnesota Statutes to "executive director of the legislative commission on pensions and retirement" in Minnesota Statutes 1986 and subsequent editions of the statutes.

The revisor of statutes is directed to change the reference to "section 69.77, subdivision 2, clause (2)" in section 423A.01, subdivision 2, clause (4) to "section 69.77, subdivision 2b."

Sec. 27. EFFECTIVE DATE.

Sections 1 to 26 are effective the day following final enactment.

Approved March 19, 1986

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