

CHAPTER 244—S.F.No. 853

An act relating to retirement; volunteer firefighters' relief associations; increasing service pension maximums; establishing a fire state aid maximum apportionment; providing penalties for noncompliance with service pension maximums; specifying duties for the state auditor; ratifying certain prior nonconforming lump sum service pension payments; continuing certain nonconforming lump sum service pension amounts in force; modifying certain investment performance calculations; modifying certain local volunteer firefighters relief association provisions; prohibiting the use of lawful gambling contributions for pensions; amending Minnesota Statutes 1992, sections 11A.04; 349.12, subdivision 25; 356.218, subdivisions 2 and 3; and 424A.02, subdivisions 1, 3, and by adding subdivisions; Laws 1971, chapter 140, section 5, as amended; proposing coding for new law in Minnesota Statutes, chapter 471.

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

ARTICLE 1

VOLUNTEER FIRE BENEFIT CHANGES

Section 1. Minnesota Statutes 1992, section 424A.02, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZATION.** A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly for fractional years of service, if the bylaws or articles of incorporation of the relief association so provide. The service pension may be paid whether or not the municipality or non-profit firefighting corporation to which the relief association is associated qualifies for fire state aid under chapter 69. In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the payment of the service pension. During the period of inactive membership, the member is not entitled to receive disability benefit coverage, is not entitled to receive additional service credit towards computation of a service pension, and is considered to have the status of a person entitled to a deferred service pension under subdivision 7.

New language is indicated by underline, deletions by ~~strikeout~~.

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

No relief association as defined in section 424A.001, subdivision 4, may pay a service pension or disability benefit to a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated.

For the purposes of this chapter, "to separate from active service" means to cease to perform fire suppression duties and to cease to supervise fire suppression duties.

Sec. 2. Minnesota Statutes 1992, section 424A.02, subdivision 3, is amended to read:

Subd. 3. **FLEXIBLE SERVICE PENSION MAXIMUMS.** (a) On or before August 1 of each year as part of the certification of the financial requirements and minimum municipal obligation made pursuant to section 69.772, subdivision 4, or 69.773, subdivision 5, the secretary or some other official of the relief association designated in the bylaws of each relief association shall calculate and certify to the governing body of the applicable qualified municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing shall include any amounts of fire state aid received or receivable by the relief association, any amounts of municipal contributions to the relief association raised from levies on real estate or from other available revenue sources exclusive of fire state aid, and one-tenth of the amount of assets in excess of the accrued liabilities of the relief association calculated pursuant to sections 69.772, subdivision 2; 69.773, subdivisions 2 and 4; or 69.774, subdivision 2, if any.

(b) The maximum service pension which the relief association ~~may~~ has authority to provide for in its bylaws for payment to a member retiring after the calculation date when the minimum age and service requirements specified in subdivision 1 are met ~~shall~~ must be determined using the ~~applicable following~~ table in paragraph (c) or (d), whichever applies.

(c) For a relief association where the governing bylaws provide for a monthly service pension to a retiring member, ~~if the average amount of available financing per active covered firefighter does not exceed the minimum average amount specified below, then~~ the maximum monthly service pension amount per month for each year of service credited ~~which that~~ that may be provided for in the bylaws shall be the greater of: (1) the service pension amount provided for in the bylaws on the date of calculation; or (2) is the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

New language is indicated by underline, deletions by ~~strikeout~~.

| Minimum Average Amount of Available Financing per Firefighter | Maximum Service Pension Amount Payable per Month for Each Year of Service |
|---|---|
| \$... | \$,25 |
| <u>37</u> <u>42</u> | .50 |
| <u>75</u> <u>84</u> | 1.00 |
| <u>112</u> <u>126</u> | 1.50 |
| <u>149</u> <u>168</u> | 2.00 |
| <u>186</u> <u>209</u> | 2.50 |
| <u>224</u> <u>252</u> | 3.00 |
| <u>261</u> <u>294</u> | 3.50 |
| <u>298</u> <u>335</u> | 4.00 |
| <u>336</u> <u>378</u> | 4.50 |
| <u>373</u> <u>420</u> | 5.00 |
| <u>447</u> <u>503</u> | 6.00 |
| <u>522</u> <u>587</u> | 7.00 |
| <u>597</u> <u>672</u> | 8.00 |
| <u>671</u> <u>755</u> | 9.00 |
| <u>746</u> <u>839</u> | 0.00 |
| <u>820</u> <u>923</u> | 1.00 |
| <u>895</u> <u>1007</u> | 12.00 |
| <u>969</u> <u>1090</u> | 13.00 |
| <u>1044</u> <u>1175</u> | 14.00 |
| <u>1119</u> <u>1259</u> | 15.00 |
| <u>1193</u> <u>1342</u> | 16.00 |
| <u>1268</u> <u>1427</u> | 17.00 |
| <u>1342</u> <u>1510</u> | 18.00 |
| <u>1417</u> <u>1594</u> | 19.00 |
| <u>1491</u> <u>1677</u> | 20.00 |
| <u>1566</u> <u>1762</u> | 21.00 |
| <u>1640</u> <u>1845</u> | 22.00 |
| <u>1678</u> <u>1888</u> | 22.50 |
| <u>1715</u> <u>1929</u> | 23.00 |
| <u>1790</u> <u>2014</u> | 24.00 |
| <u>1865</u> <u>2098</u> | 25.00 |
| <u>1940</u> <u>2183</u> | 26.00 |
| <u>2015</u> <u>2267</u> | 27.00 |
| <u>2090</u> <u>2351</u> | 28.00 |
| <u>2165</u> <u>2436</u> | 29.00 |
| <u>2240 or more</u> <u>2520</u> | 30.00 |
| <u>any amount more than 2520</u> | <u>30.00</u> |

(d) For a relief association in which the governing bylaws provide for a lump sum service pension to a retiring member, ~~if the average amount of available financing per active covered firefighter does not exceed the minimum average amount specified below; then~~ the maximum lump sum service pension amount for each year of service credited ~~which that~~ may be provided for in the

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bylaws shall be the greater of: (1) the service pension amount provided for in the bylaws on the date of the calculation; or (2) is the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter for the applicable specified period:

Minimum Average Amount
of Available Financing
per Firefighter

Maximum Lump Sum Service
Pension Amount Payable
for Each Year of Service

(1) for service pensions payable before January 1, 1994

| | | |
|---------------------------|--|------|
| \$.. | | \$10 |
| 40 <u>11</u> | | 20 |
| 14 <u>16</u> | | 30 |
| 20 <u>23</u> | | 40 |
| 24 <u>27</u> | | 50 |
| 28 <u>32</u> | | 60 |
| 38 <u>43</u> | | 80 |
| 48 <u>54</u> | | 100 |
| 58 <u>65</u> | | 120 |
| 68 <u>77</u> | | 140 |
| 76 <u>86</u> | | 160 |
| 86 <u>97</u> | | 180 |
| 96 <u>108</u> | | 200 |
| 116 <u>131</u> | | 240 |
| 134 <u>151</u> | | 280 |
| 154 <u>173</u> | | 320 |
| 172 <u>194</u> | | 360 |
| 192 <u>216</u> | | 400 |
| 212 <u>239</u> | | 440 |
| 230 <u>259</u> | | 480 |
| 250 <u>281</u> | | 520 |
| 268 <u>302</u> | | 560 |
| 288 <u>324</u> | | 600 |
| 308 <u>347</u> | | 640 |
| 326 <u>367</u> | | 680 |
| 346 <u>389</u> | | 720 |
| 364 <u>410</u> | | 760 |
| 384 <u>432</u> | | 800 |
| 432 <u>486</u> | | 900 |
| 480 <u>540</u> | | 1000 |
| 528 <u>594</u> | | 1100 |
| 576 <u>648</u> | | 1200 |
| 624 <u>702</u> | | 1300 |
| 672 <u>756</u> | | 1400 |
| 720 <u>810</u> | | 1500 |
| 768 <u>864</u> | | 1600 |
| 816 <u>918</u> | | 1700 |
| 864 <u>972</u> | | 1800 |

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| | | |
|-----------------------------|-------------|-------------|
| 912 | <u>1026</u> | 1900 |
| 960 | <u>1080</u> | 2000 |
| 1008 | <u>1134</u> | 2100 |
| 1056 | <u>1188</u> | 2200 |
| 1104 | <u>1242</u> | 2300 |
| 1152 | <u>1296</u> | 2400 |
| 1200 | <u>1350</u> | 2500 |
| 1248 | <u>1404</u> | 2600 |
| 1296 | <u>1458</u> | 2700 |
| 1344 | <u>1512</u> | 2800 |
| 1392 | <u>1566</u> | 2900 |
| 1440 or more | <u>1620</u> | 3000 |
| | <u>1672</u> | 3100 |
| | <u>1726</u> | 3200 |
| | <u>1753</u> | 3250 |
| | <u>1780</u> | 3300 |
| | <u>1820</u> | 3375 |
| <u>any amount more than</u> | <u>1820</u> | <u>3375</u> |

(2) in addition to the service pension maximum under clause (1), for service pensions payable after December 31, 1993, and before January 1, 1995

| | | |
|-----------------------------|-------------|-------------|
| | <u>1834</u> | 3400 |
| | <u>1888</u> | 3500 |
| <u>any amount more than</u> | <u>1888</u> | <u>3500</u> |

(3) in addition to the service pension maximum under clauses (1) and (2), for service pensions payable after December 31, 1994, and before January 1, 1996

| | | |
|-----------------------------|-------------|-------------|
| | <u>1942</u> | 3600 |
| | <u>1996</u> | 3700 |
| | <u>2023</u> | 3750 |
| <u>any amount more than</u> | <u>2023</u> | <u>3750</u> |

(4) in addition to the service pension maximum under clauses (1) to (3), for service pensions payable after December 31, 1995

| | | |
|-----------------------------|-------------|-------------|
| | <u>2050</u> | 3800 |
| | <u>2104</u> | 3900 |
| | <u>2158</u> | 4000 |
| <u>any amount more than</u> | <u>2158</u> | <u>4000</u> |

(e) For a relief association in which the governing bylaws provide for a monthly benefit service pension as an alternative form of service pension payment to a lump sum service pension ~~at the option of the retiring member~~, the maximum service pension amount ~~shall for each pension payment type must~~ be determined using the applicable table contained in this subdivision.

(f) If a relief association establishes a service pension in compliance with the

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applicable maximum contained in paragraph (c) or (d) and the minimum average amount of available financing per active covered firefighter is subsequently reduced because of a reduction in fire state aid or because of an increase in the number of active firefighters, the relief association may continue to provide the prior service pension amount specified in its bylaws, but may not increase the service pension amount until the minimum average amount of available financing per firefighter under the table in paragraph (c) or (d), whichever applies, permits.

(g) No relief association is authorized to provide a service pension in an amount greater than \$30 per month per year of service credit or in an amount greater than \$3,375 lump sum per year of service credit before January 1, 1994, \$3,500 lump sum per year of service credit before January 1, 1995, \$3,750 lump sum per year of service credit before January 1, 1996, and \$4,000 lump sum per year of service credit after December 31, 1995, even if the minimum average amount of available financing per firefighter for a relief association providing a monthly benefit service pension is greater than \$2,240, or, for a relief association providing a lump sum service pension, is greater than \$1,753 before January 1, 1994, \$1,888 before January 1, 1995, \$2,023 before January 1, 1996, or \$2,158 after December 31, 1995.

Sec. 3. Minnesota Statutes 1992, section 424A.02, is amended by adding a subdivision to read:

Subd. 3a. PENALTY FOR PAYING PENSION GREATER THAN APPLICABLE MAXIMUM. (a) If a relief association pays a service pension greater than the maximum service pension associated with the applicable average amount of available financing per active covered firefighter under the table in subdivision 3, paragraph (c) or (d), whichever applies, the maximum service pension under subdivision 3, paragraph (f), or the applicable maximum service pension amount specified in subdivision 3, paragraph (g), whichever is less, the state auditor shall:

(1) disqualify the municipality or the nonprofit firefighting corporation associated with the relief association from receiving fire state aid by making the appropriate notification to the municipality and the commissioner of revenue, with the disqualification applicable for the next apportionment and payment of fire state aid; and

(2) recover the amount of the overpaid service pension or pensions from any retired firefighter who received an overpayment.

(b) Fire state aid amounts from disqualified municipalities for the period of disqualifications under paragraph (a), clause (1), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

(c) The amount of any overpaid service pension recovered under paragraph (a), clause (2), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

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(d) The determination of the state auditor that a relief association has paid a service pension greater than the applicable maximum must be made on the basis of the information filed by the relief association and the municipality with the state auditor under sections 69.011, subdivision 2, and 69.051, subdivision 1 or 1a, whichever applies, and any other relevant information that comes to the attention of the state auditor. The determination of the state auditor is final. An aggrieved municipality, relief association, or person may appeal the determination under section 480A.06.

Sec. 4. VALIDATION OF PRIOR PAYMENTS; AUTHORITY TO RETAIN CERTAIN SERVICE PENSION AMOUNTS.

(a) Payments of lump sum service pensions by volunteer firefighter relief associations before March 15, 1992, that were in excess of the uppermost flexible service pension maximum amount specified in Minnesota Statutes, section 424A.02, subdivision 3, but were in conformance with the articles of incorporation or bylaws of the relief association in effect on the day before the payment of the lump sum service pension, are ratified.

(b) A lump sum service pension amount in excess of the uppermost flexible service pension maximum amount specified in Minnesota Statutes 1990, section 424A.02, subdivision 3, and in excess of the applicable lump sum service pension maximum amount specified in section 424A.02, subdivision 3, as specified in the articles of incorporation or bylaws of a relief association in effect on December 31, 1991, may continue in force after December 31, 1991, but may not be subsequently increased except in conformance with section 424A.02, subdivision 3.

Sec. 5. EFFECTIVE DATE.

Sections 1 to 4 are effective the day following final enactment.

ARTICLE 2

VOLUNTEER FIRE INVESTMENT PERFORMANCE REPORTING

Section 1, Minnesota Statutes 1992, section 11A.04, is amended to read:

11A.04 DUTIES AND POWERS.

The state board shall:

(1) Act as trustees for each fund for which it invests or manages money in accordance with the standard of care set forth in section 11A.09 if state assets are involved and in accordance with chapter 356A if pension assets are involved.

(2) Formulate policies and procedures deemed necessary and appropriate to

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carry out its functions. Procedures adopted by the board must allow fund beneficiaries and members of the public to become informed of proposed board actions. Procedures and policies of the board are not subject to the administrative procedure act.

(3) Employ an executive director as provided in section 11A.07.

(4) Employ investment advisors and consultants as it deems necessary.

(5) Prescribe policies concerning personal investments of all employees of the board to prevent conflicts of interest.

(6) Maintain a record of its proceedings.

(7) As it deems necessary, establish advisory committees subject to section 15.059 to assist the board in carrying out its duties.

(8) Not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or the issuer's agent.

(9) Direct the state treasurer to sell property other than money that has escheated to the state when the board determines that sale of the property is in the best interest of the state. Escheated property must be sold to the highest bidder in the manner and upon terms and conditions prescribed by the board.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this section.

(11) Establish a formula or formulas to measure management performance and return on investment. Except as provided by section 356.218, public pension funds in the state shall utilize the formula or formulas developed by the state board.

(12) Except as otherwise provided in article XI, section 8, of the constitution of the state of Minnesota, employ, at its discretion, qualified private firms to invest and manage the assets of funds over which the state board has investment management responsibility. There is annually appropriated to the state board, from the assets of the funds for which the state board utilizes a private investment manager, sums sufficient to pay the costs of employing private firms. Each year, by January 15, the board shall report to the governor and legislature on the cost and the investment performance of each investment manager employed by the board.

(13) Adopt an investment policy statement that includes investment objectives, asset allocation, and the investment management structure for the retirement fund assets under its control. The statement may be revised at the discretion of the state board. The state board shall seek the advice of the council regarding its investment policy statement. Adoption of the statement is not subject to chapter 14.

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Sec. 2. Minnesota Statutes 1992, section 356.218, subdivision 2, is amended to read:

Subd. 2. **COVERED PUBLIC PENSION PLANS.** The provisions of this section apply to any Minnesota public pension plan, including a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.775, that has assets with a book value of at least \$500,000 as of the end of the preceding plan year. A volunteer firefighters' relief association governed by sections 69.771 to 69.775, that has assets with a book value of at least \$500,000 but less than or equal to \$2,000,000 as of the end of the preceding plan year, shall use the formula identified in subdivision 3, paragraph (b), clause (1), or the formula described in subdivision 3, paragraph (b), clause (2), as the relief association elects. Other covered public pension plans shall utilize the formula identified in subdivision 3, paragraph (b), clause (1).

Sec. 3. Minnesota Statutes 1992, section 356.218, subdivision 3, is amended to read:

Subd. 3. **CONTENTS OF THE INVESTMENT PERFORMANCE REPORT.** (a) The investment performance report required by this section must contain the time-weighted total rate of return results for each quarter and annually for each significant asset class or type of investment and for the portfolio as a whole.

(b) The time-weighted rate of return results must be computed using market values and the applicable procedure, as follows:

(1) by the formula or formulas prescribed by the state board of investment under section 11A.04, clause (11); or

(2) by dividing the total investment gain or loss for the quarter by average assets for the quarter, if:

(i) the total investment gain or loss for the quarter is computed by subtracting the beginning market value for the quarter and the net contributions for the quarter from the ending market value for the quarter;

(ii) the measure of average assets to be used is the beginning market value for the quarter plus one-half the net contributions for the quarter; and

(iii) the resulting quarterly returns for each significant asset class and for the portfolio as a whole must be used to create annual time-weighted returns according to the same procedures for developing annual time-weighted returns from quarterly returns, as used in the formula specified by the state board of investment under section 11A.04, clause (11).

(c) The person performing the calculations shall certify conformance to ~~that~~ formula or those formulas the applicable procedure.

(d) The investment performance report may also include any additional

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investment performance or investment related information that the chief administrative officer considers necessary to provide an adequate summary of the performance of the portfolio. The additional information must be clearly indicated as a supplement to the information required by this subdivision.

(e) The executive director of the legislative commission on pensions and retirement shall prescribe the forms on which the report must be submitted and may prescribe other directions for submitting the report.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective July 1, 1993.

ARTICLE 3

TRANSFERS TO OTHER TAX QUALIFIED PENSION PLANS

Section 1. Minnesota Statutes 1992, section 424A.02, is amended by adding a subdivision to read:

Subd. 8b. TRANSFER TO INDIVIDUAL RETIREMENT ACCOUNT. A relief association that is a qualified pension plan under section 401(a) of the federal internal revenue code, as amended, and that provides a lump sum service pension, at the written request of a retiring member, may directly transfer the eligible member's lump sum pension to the member's individual retirement account under section 408(a) of the federal internal revenue code, as amended.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

ARTICLE 4

LOCAL VOLUNTEER FIRE RELIEF ASSOCIATION PROVISIONS

Section 1. Laws 1971, chapter 140, section 5, as amended by Laws 1973, chapter 30, section 5, is amended to read:

Sec. 5. GOLDEN VALLEY VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION; FUNERAL BENEFIT COVERAGE.

Subdivision 1. BENEFIT AUTHORIZATION. Notwithstanding any provision of law to the contrary, the bylaws of the ~~firemen's~~ volunteer firefighters' relief association in the ~~village~~ city of Golden Valley may provide for a funeral benefit ~~not to exceed \$1,500~~ in case of death of a retired, disabled, or active ~~fireman~~ firefighter. The amount of the funeral benefit payable on account of any deceased active, disabled, or retired firefighter may not exceed \$1,500.

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Provided further, in the case of a member receiving an early retirement service pension or an early retirement service transfer pension under section 1, subdivision 2 or 3, and who ~~has been had credit for a period as a member of the association for a period of not less than five years~~, the funeral benefit ~~shall be in the is~~ an amount of \$100 for each year of service exceeding five and with a maximum benefit of \$1,500.

Subd. 2. ADDITIONAL FUNDING REQUIREMENT FOR FUNERAL BENEFIT COVERAGE. In addition to the determination of the accrued liability of the relief association under Minnesota Statutes, section 69.772, subdivision 2, the officers of the relief association shall determine an additional accrued liability for the funeral benefit coverage under subdivision 1. The additional accrued liability is an amount equal to ten percent of the accrued liability determined under Minnesota Statutes, section 69.772, subdivision 2. In calculating the financial requirements of the relief association and the minimum obligation of the municipality under Minnesota Statutes, section 69.772, subdivision 3, the additional accrued liability for this benefit coverage must be added to the results determined under Minnesota Statutes, section 69.772, subdivisions 2 and 2a.

Sec. 2. RATIFICATION OF PRIOR FUNERAL BENEFIT PAYMENTS.

Any funeral benefit payment made between March 27, 1973, and the effective date of this section, that was in conformance with the bylaws of the Golden Valley volunteer firefighters' relief association at the time of the payment, but that was in excess of the amount authorized under Laws 1973, chapter 30, section 5, before this amendment is ratified by this section.

Sec. 3. ELLENDALE FIRE DEPARTMENT RELIEF ASSOCIATION BENEFIT AND AID USE RATIFICATION.

Subdivision 1. BENEFIT RATIFICATION. Notwithstanding Minnesota Statutes, section 424A.02, subdivision 1, or any opinion of the office of the state auditor to the contrary, benefit payments made to retiring members of the Ellendale fire department relief association prior to the effective date of this section are ratified.

Subd. 2. AID USAGE RATIFICATION. Notwithstanding Minnesota Statutes, sections 69.021, 424A.05, 424A.08, or prior laws governing the allocation or use of fire state aid, any allocation or use of fire state aid received by the fire-town of Ellendale prior to the effective date of this section is hereby ratified providing the aid was used for a fire related purpose or as funding for the special fund of the Ellendale fire department relief association.

Sec. 4. EFFECTIVE DATE; LOCAL APPROVAL.

Sections 1 and 2 are effective the day following approval by the governing body of the city of Golden Valley and compliance with Minnesota Statutes, section 645.021, subdivision 3. Section 3 is effective the day following approval by the governing body of the city of Ellendale and compliance with Minnesota Statutes, section 645.021, subdivision 3.

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ARTICLE 5
PROHIBITION OF USE OF
LAWFUL GAMBLING CONTRIBUTIONS FOR PENSIONS

Section 1. Minnesota Statutes 1992, section 349.12, subdivision 25, is amended to read:

Subd. 25. (a) "Lawful purpose" means one or more of the following:

(1) any expenditure by or contribution to a 501(c)(3) organization, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154;

(2) a contribution to an individual or family suffering from poverty, homelessness, or physical or mental disability, which is used to relieve the effects of that poverty, homelessness, or disability;

(3) a contribution to an individual for treatment for delayed posttraumatic stress syndrome or a contribution to a recognized program for the treatment of compulsive gambling on behalf of an individual who is a compulsive gambler;

(4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;

(5) a contribution to a scholarship fund for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;

(6) activities by an organization or a government entity which recognize humanitarian or military service to the United States, the state of Minnesota, or a community, subject to rules of the board;

(7) recreational, community, and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender, as evidenced by (i) provision of equipment and supplies, (ii) scheduling of activities, including games and practice times, (iii) supply and assignment of coaches or other adult supervisors, (iv) provision and availability of support facilities, and (v) whether the opportunity to participate reflects each gender's demonstrated interest in the activity, provided that nothing in this clause prohibits a contribution to or expenditure on an educational institution or other entity that is excepted from the prohibition against discrimination based on sex contained in the Higher Education Act Amendments of 1976, United States Code, title 20, section 1681;

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, and the tax imposed by section 349.212, subdivisions 1 and 4, and the tax imposed on unrelated business income by section 290.05, subdivision 3;

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(9) payment of real estate taxes and assessments on licensed gambling premises wholly owned by the licensed organization paying the taxes, not to exceed:

(i) the amount which an organization may expend under board rule on rent for premises used for bingo; or

(ii) \$15,000 per year for premises used for other forms of lawful gambling;

(10) a contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency;

(11) a contribution to or expenditure by a nonprofit organization, church, or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances; or

(12) payment of one-half of the reasonable costs of an audit required in section 349.19, subdivision 9.

(b) Notwithstanding paragraph (a), "lawful purpose" does not include:

(1) any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose of promoting or defeating a ballot question;

(2) any activity intended to influence an election or a governmental decision-making process;

(3) the erection, acquisition, improvement, expansion, repair, or maintenance of real property or capital assets owned or leased by an organization, except as provided in clause (6), unless the board has first specifically authorized the expenditures after finding that (i) the real property or capital assets will be used exclusively for one or more of the purposes in paragraph (a); (ii) with respect to expenditures for repair or maintenance only, that the property is or will be used extensively as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; (iii) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building, a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance; or (iv) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization that was acquired from the organization by eminent domain or sold by the organization to a purchaser that the organization reasonably believed would otherwise have acquired the building by eminent domain, provided that the expenditure may be only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced;

New language is indicated by underline, deletions by ~~strikeout~~.

(4) an expenditure by an organization which is a contribution to a parent organization, foundation, or affiliate of the contributing organization, if the parent organization, foundation, or affiliate has provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value;

(5) a contribution by a licensed organization to another licensed organization unless the board has specifically authorized the contribution. The board must authorize such a contribution when requested to do so by the contributing organization unless it makes an affirmative finding that the contribution will not be used by the recipient organization for one or more of the purposes in paragraph (a); ~~or~~

(6) the erection, acquisition, improvement, or expansion of real property or capital assets which will be used for one or more of the purposes in paragraph (a), clause (7), unless the organization making the expenditures notifies the board at least 15 days before making the expenditure; or

(7) a contribution to a statutory or home rule charter city, county, or town by a licensed organization with the knowledge that the governmental unit intends to use the contribution for a pension or retirement fund.

Sec. 2. [471.6151] CONTRIBUTIONS FROM LAWFUL GAMBLING ORGANIZATIONS.

Contributions of receipts derived from lawful gambling to a statutory or home rule charter city, county, or town made by an organization licensed to conduct lawful gambling under chapter 349 may not be used for the benefit of a pension or retirement fund.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective the day following final enactment.

Presented to the governor May 14, 1993

Signed by the governor May 17, 1993, 4:52 p.m.

CHAPTER 245—H.F.No. 948

An act relating to commerce; modifying the definition of business license; regulating residential building contractors and remodelers; providing licensing requirements; prescribing the powers and duties of the commissioner; establishing a contractor's recovery fund; appropriating money; amending Minnesota Statutes 1992, sections 116J.70, subdivision 2a; 326.83, subdivisions 4, 6, 7, 8, 10, and by adding subdivisions; 326.84, subdivisions 1 and 3; 326.85, subdivision 1; 326.86; 326.87, subdivision 2; 326.88; 326.89, subdivisions 2, 3, and by adding subdivisions; 326.90; 326.91, subdivisions 1 and 2; 326.92, subdivisions 1 and 3;

New language is indicated by underline, deletions by ~~strikeout~~.