

CHAPTER 267—S. F. No. 490

An act relating to firemen's relief association in cities of the second class, and repealing inconsistent acts.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Firemen's Relief Association in cities of second class.—The fire department of each city of the second class in this state shall maintain a firemen's relief association which shall be incorporated under the laws of the state of Minnesota. All such associations now existing as such corporations, or hereafter incorporated under the laws of this state, shall have perpetual corporate existence.

Sec. 2. Organization—operation.—Each relief association shall be organized, operated, and maintained in accordance with its own articles of incorporation and by-laws, by firemen, as hereinafter defined, who are members of said fire departments. Each association shall have power to regulate its own management and its own affairs, and all additional incorporated powers which may be necessary or useful; subject, however, to the regulations and restrictions of this act, and other laws of this state pertaining to corporations, not inconsistent herewith.

Sec. 3. Who are members of Firemen's Relief Association.—A fireman under this act is one who is regularly entered on the payroll of one of said fire departments, serving on active duty with a designated fire company therein, or having charge of one or more of said companies and engaged in the hazards of fire fighting; and shall include all members of the electrical and mechanical divisions of the fire departments who are subject to like hazards. Substitutes and persons employed irregularly from time to time shall not be included.

All persons who are members of the relief associations at the time of the passage of this act, whether their status is embraced within the definition of a fireman herein contained or otherwise, shall have the right to continue as members of their respective associations and be entitled to all benefits pertaining thereto, and any member included under the definition of firemen herein provided shall have the right to retain his membership on promotion or appointment to other positions to which such firemen herein may be subject.

This act shall not affect any pensions or other benefits which have been allowed or which are being paid by any such relief association under or in accordance with any prior act or acts, at the time this act becomes effective. Payment

of such pensions and benefits shall be continued by the respective associations, and shall be subject only to the provisions of section 18 of this act.

Sec. 4. Who may apply for membership.—Every fireman as herein defined shall be eligible to apply for membership in the relief association in the city in which he is employed within the time and in the manner hereinafter set forth. Any such fireman desiring to become a member shall, not later than 90 days from the time when he is regularly entered on the payrolls of the fire department, make written application for membership in the relief association on forms supplied by the association, accompanied by one or more physician's certificates as required by the by-laws of the association. After the application has been filed, the board of examiners of the association shall make a thorough investigation thereof and file their report with the secretary of the association. Such application must be acted upon by the association within six months from the date applicant was entered on the payroll of the fire department. No fireman who is more than 35 years of age when his application is filed can become a member of the relief association, except that such age limitation of 35 years shall not apply on application for reinstatement in the association.

Sec. 5. May exclude certain persons.—Each firemen's relief association shall have the right to exclude all applicants for membership who are not physically and mentally sound, so as to prevent unwarranted risks for the association; and additional requirements for the entrance fees and annual dues for membership in the association may from time to time be prescribed in the by-laws of the association.

Sec. 6. Officers—trustees.—The officers of the relief association shall be a president, one or more vice-presidents, a secretary and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the by-laws of any such associations. The affairs of each association shall be managed by a board of trustees elected in the manner prescribed by the articles of incorporation of the association.

The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in amounts as the association from time to time may determine. Each relief association shall and is hereby authorized to pay the premiums on such bonds from its general fund.

Sec. 7. Secretary and treasurer to prepare statement of receipts and expenditures.—The secretary and treasurer of every association, prior to the 1st day of February in each year, shall jointly prepare and sign with the approval of the association's board of trustees, a detailed and itemized report of all receipts and expenditures in the association's special fund for the preceding calendar year, showing the source of said receipts, and to whom and for what purpose the money has been paid and expended, and the balance of the fund. They shall file duplicate original copies thereof with the clerk of the city in which the association is located, and with the state auditor. No money shall be paid to a relief association by either the state of Minnesota or the city in which the association is located until the report is filed.

Sec. 8. City clerk to file report of existence of association.—The clerk of every city of the second class having a firemen's relief association shall, on or before the 31st day of October in each year, make and file with the insurance commissioner of this state his certificate stating the existence of the firemen's relief association.

Sec. 9. Insurance commissioner shall inform insurance companies of existence of associations.—The insurance commissioner shall enclose in his annual statement blank sent by him to all fire insurance companies doing business in this state, a blank form containing the names of all firemen's relief associations in all cities of the second class and names of the cities, and shall require the companies at the time of making their annual statements to the insurance commissioner to state on said blanks the amount of premiums received by them upon properties insured within the corporate limits of the cities named thereon during the year ending December 31st last past. Thereafter, and before July 1st in each year the insurance commissioner shall certify to the state auditor the information thus obtained, together with the amount of the tax for the benefit of the relief association paid in such year by said companies upon such insurance premiums.

Sec. 10. State auditor to remit funds to relief associations.—The state auditor at the end of each fiscal year shall issue and deliver to the treasurer of each relief association his warrant upon the state treasurer for an amount equal to the total amount of the tax, for the benefit of the relief associations, paid by fire insurance companies upon the premiums by said companies received in the city upon proper-

ties insured within the corporate limits thereof in which the association is located, together with the other appropriations or funds as may hereafter be appropriated or created, and to which the association is entitled.

Sec. 11. State treasurer to pay warrants.—The state treasurer shall, upon presentation to him of the warrant of the state auditor specified in the foregoing section, pay out of the general revenue fund of the state the amount thereof to the treasurer of the relief association presenting the warrant.

Sec. 12. Tax levy for relief association—amount of payments.—The city council or other governing body of each city wherein such a relief association is located shall each year, at the time the tax levies for the support of the city are made, and in addition thereto, levy a tax of three-tenths of one mill on all taxable property within said city. Whenever the balance in the special fund of any firemen's relief association in any city of the second class is less than \$50,000 the city council or commission or other governing body, shall, each year, at the time the tax levies are made for the support of the city, and in addition thereto, levy a tax of three-tenths of one mill on all the taxable property in such city; however, when said fund shall reach or exceed \$50,000, the levy, each year, shall be one-tenth of one mill. In addition, and only if such tax is levied, the city treasurer, finance commissioner or other officer charged with the responsibility of the city's finances, shall, each month, deduct two per cent of the basic pay of all firemen, and transfer the total thereof to the treasurer of the special fund of the firemen's relief association who shall credit said total to the special fund and to the credit of the individual fireman. If a fireman in such city of the second class is separated from the service due to resignation or some reason not involving malfeasance, nonfeasance, moral turpitude, injury, death or other disability, the treasurer of the special fund shall return to the fireman all of the amounts so deducted from his base pay without interest. Members of the firemen's relief association in such city of the second class who were in cities of the second class receiving a firemen's pension on January 1, 1941 and who were active on January 1st, 1941, and who join the association thereafter, or their beneficiaries, shall receive as benefit payments, according to the rules of the association, amounts to be determined by the board of trustees of the association, but said amounts shall be no less than \$50.00, nor more than \$75.00, per month. The tax so levied shall be transmitted with other tax levies to the auditor

of the county in which the city is situated, and by the county shall be collected and payment thereof enforced when and in like manner as state and county taxes are paid.

Sec. 13. County treasurer to pay over taxes collected.—As soon as practical, after the first day of June and the first day of November in each year, the county treasurer of each county shall pay to the treasurer of each relief association within the county the amount of the tax then collected, and payable to said association together with all interest and penalties so collected, and all interest paid thereon between the time of collection and the time of payment to the relief association. The city treasurer of such city, in the event that the tax or any part thereof is paid to him, shall likewise pay the same to the treasurer of the relief association in said city as soon as the same has been collected, together with all interest and penalties collected thereon.

Sec. 14. Relief associations to have custody of funds.—Each relief association shall have full and permanent charge of, and the responsibility for the proper management and control of all funds that may come into its possession, and particularly funds derived from the following sources:

(a) Funds derived from the state of Minnesota, and interest from the investment thereof.

(b) Funds derived from the tax levies by the city in which such relief association is located, and interest from the investment thereof.

(c) Funds derived from private sources such as gifts, charges, rents, entertainments, dues paid by members, and from other sources.

Sec. 15. Money to be kept in two funds.—The money received from the various sources shall be kept in two separate and distinct funds, one to be designated as the association special fund, and the other as its general fund. All money received from the state of Minnesota and from the city in which the relief association is located shall be deposited in the special fund, and shall be expended only for purposes hereinafter authorized. All money received from other sources shall be deposited in the general fund, and may be expended for any purpose deemed proper by such association.

Sec. 16. Certain moneys to be kept in special fund.—The amounts so paid to relief association by the state and each city under the provisions of this act, and by it set aside

and deposited as a special fund, shall be appropriated and disbursed by each such association for the following purposes, to-wit:

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

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

Sec. 17. Relief association shall determine who are entitled to relief.—Each relief association shall in its by-laws define the sickness and disability entitling its members to relief, and specify the amounts thereof, and also specify the amounts to be paid to its disability and service pensioners, and to widows and children of deceased members, and to fix the age limit of children to which pensions may be paid. When the total assets of the association shall amount to \$50,000 or more, it shall have the right to pay to its members the maximum amounts specified in this act.

Sec. 18. May reduce amount of pension.—The firemen's relief association shall at all times have and retain the right to reduce the amount of pensions and benefits to be thereafter paid out of its funds, whenever its total funds, as determined by its board of trustees, are less than \$25,000 and within the limits of this act described, said associations shall have and retain the right to increase or otherwise adjust said pensions and benefits after same have been so reduced.

Sec. 19. Who shall be entitled to pension.—A member of such association who, by reason of sickness or accident, becomes disabled from performing his assignment of duties on the fire department, shall be entitled to the relief as the by-laws of the association may provide. No allowances for the disabilities shall be made unless notice of the disability and application for benefits on account thereof shall be made by or on behalf of the disabled member to the secretary of the association within 30 days after the beginning of such disability.

Sec. 20. Members to receive disability benefits.—A member of any such relief association entitled to disability benefits as herein defined, shall receive the same from his association for such periods of time at such times, and in such amounts, not to exceed \$75.00 per month, as the by-laws of the association provide.

Sec. 21. Who are members.—A member of the association as herein defined who has completed a period, or periods of

service on the fire department equal to 20 years or more, shall, after he has arrived at the age of 50 years or more, and has retired from the payroll of the fire department, be entitled to a pension of not less than \$50.00, nor more than \$75.00, per month for his natural life in conformity to the by-laws of each association. All leaves of absence of more than 90 days, except such as are granted to a member because of his disability due to sickness or accident, shall be excluded in computing the period of service; and all periods of time during which a member received a disability pension shall be excluded in the computation. No deductions shall be made for a leave of absence granted to a member to enable to accept an appointive position in said fire department. No member shall be entitled to draw both a disability and a service pension. The by-laws of each association may provide for said increases or any portion thereof, provided that in no event shall the total pension exceed the sum of \$75.00 per month.

Sec. 22. Who may retire.—A member of such association who has performed service on the fire department for 20 years or more, but has not reached the age of 50 years, shall have the right to retire from the department without forfeiting his right to a service pension. He shall, upon application, be placed on the deferred pension roll of the association, and, after he has reached the age of 50 years, the association shall upon application therefor pay his pension from the date the application is approved by the association. Any person making the application thereby waives all other rights, claims or demands against his association for any cause that may have arisen from, or that may be attributable to, his service on the fire department.

Sec. 23. Military service to be included in service.—Any applicant for a service pension who subsequent to his entry into the service of the fire department has served in the military forces of the United States in the World War, or having during the war entered the employment of the government of the United States and in such service rendered fire prevention service during said war, and has returned after his honorable discharge from such service and resumed active duty in the fire department, the period of his absence in the service of the United States shall not be deducted in computing the period of service hereinbefore provided for, but shall be construed and counted as a part and portion of his active duty in the fire department.

Sec. 24. Pensions to survivors.—When a service pensioner, disability pensioner, or deferred pensioner, or an active member of such relief association dies, leaving:

(a) A widow who became his legally married wife while or prior to the time he was on the payroll of the fire department and remained such continuously after the marriage until his death without having applied for any divorce or legal separation, and who, in case the deceased member was a service or deferred pensioner, was legally married to such member at least three years before his retirement from said fire department; and who, in any case, was residing with him at the time of his death. No temporary absence for purposes of business, health, or pleasure shall constitute a change of residence for the purposes of this section.

(b) A child or children who were living while the deceased was on the payroll of the fire department, or who were born within nine months after said decedent was withdrawn from the payroll of said fire department, such widow and said child or children shall be entitled to a pension or pensions as follows:

(1) To such a widow a pension of not less than \$25.00 and not to exceed the sum of \$50.00 per month, as the by-laws of said association provide, for her natural life; provided, however, that if she shall re-marry, then such pension shall cease and terminate as of the date of her remarriage.

(2) To such child or children, if their mother is living, a pension of not to exceed \$15.00 per month for each child up to the time each child reaches the age of not less than 16 and not to exceed an age of 18 years, in conformity with the by-laws of each association. Provided, the total pension hereunder for the widow and children of said deceased member shall not exceed the sum of \$75.00 per month.

(3) A child or children of a deceased member receiving a pension or pensions hereunder shall, after the death of their mother, be entitled to receive a pension or pensions in the amount or amounts as the board of trustees of such association shall deem necessary to properly support the child or children until they reach the age of not less than 16 and not more than 18 years, as the by-laws of each association may provide; but the total amount of such pension or pensions hereunder for any such child or children shall not exceed the sum of \$75.00 per month.

Sec. 25. Board of examiners.—The relief association shall establish a board of examiners who shall, as and when re-

quested by the association's board of trustees, make a thorough investigation of a report on all applications for membership in the association; investigate and make report on all applications for disability pension and make recommendations as to amount to be paid to the applicant; investigate and make report on all disability pensioners, and make recommendations as to amount of pension to be paid to them from year to year; and investigate and report on all applications for service pensions, and claims for relief. This board shall consist of a competent physician selected by the association, and at least three members of the relief association on active duty with the fire department.

Sec. 26. Public examiner to examine accounts.—The public examiner of this state shall each year examine the books and accounts of the secretary and the treasurer of each such relief association. If he finds that any money has been expended for purposes not authorized by this act, he shall report the same to the governor, who shall thereupon direct the state auditor not to issue any further warrants to the association until the public examiner shall report that money unlawfully expended has been replaced. The governor may also take such further action as the emergency may demand.

Sec. 27. Payments to be exempt from legal process.—All payments made or to be made by any relief associations under any of the provisions of this act shall be totally exempt from garnishment, execution or other legal process, and no persons entitled to such payment shall have the right to assign the same, nor shall the association have authority to recognize any assignment, or to pay any sum on account thereof; and any attempt to transfer any such right or claim or any part thereof shall be void.

Sec. 28. Shall not affect workingman's compensation act.—This act shall not be construed as abridging, repealing or amending the laws of this state relating to the provisions of the law commonly known as the workmen's compensation act.

Sec. 29. Inconsistent acts repealed.—All laws and enactments of this state inconsistent herewith, or conflicting with the provisions of this act, and all prior laws of this state relating to firemen's relief associations in cities of the second class, the rights and obligations of the members thereof, and the use and control of the funds received by such associations, are hereby in all things repealed; except as hereinbefore provided in section 3 of this act.

Sec. 30. Provisions severable.—If any section or portion of a section of this act is declared invalid, the rest of this act shall nevertheless be and remain in full force and effect.

Sec. 31. Pensions to be uniform.—All pensions paid to firemen or their widows pursuant to the provisions of this Act shall be uniform except as may be specifically provided for herein.

Approved April 16, 1941.

CHAPTER 268—S. F. No. 544

An act relating to the redistricting of commissioner's districts and amending Mason's Supplement 1940, Section 651.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Law amended.—That Mason's Supplement 1940, Section 651, be amended so as to read as follows:

"651. County board may redistrict commissioner's district.—Each county shall be divided into as many districts, numbered consecutively as it has members of the board. In all counties such districts shall be bounded by town, village, ward, or precinct lines, shall be composed of contiguous territory and contain as nearly as practicable an equal population. Counties may be redistricted by the county board after each state or federal census; and when it appears that after a state or federal census 30 per cent or more of the population of any county is contained in one district, exclusive of the inmates of any state penal or corrective institution, or state hospital for the insane, maintained wholly or partly within such district, such county shall be redistricted by its county board. Provided however, that no city of the second class shall be in more than two commissioners' districts.

Provided that the county board shall not have authority or jurisdiction to re-district a county unless said board shall cause at least three weeks' published notice of its purpose to do so, stating the time and place of the meeting where the matter will be considered, to be published in the newspaper having the contract for publishing the commissioners' proceedings for said county for the current year. One commissioner shall be elected in each such district who at the time of the election shall be a resident thereof, and the per-