

CHAPTER 69**FIRE AND POLICE DEPARTMENT AID AND FIREMENS AND POLICEMENS RELIEF**

NOTE: Fire department aid through taxation of fire insurance premiums originated with L. 1885, c. 187. Our present law, sections 69.01 through 69.06 originated in L. 1903, c. 20, and has been liberally amended. These sections deal with state fire department aid derived from premium taxes collected from fire insurance companies, the creation of a special fund, and the manner of disbursement.

Sections 69.07 through 69.13 (L. 1935, c. 153) relate to fire department relief associations in certain cities raising money by taxation and salary deductions. Activities are controlled by the limitations prescribed in sections 69.01 through 69.06, and in section 424.31.

Sections 69.22 through 69.24 (L. 1919 c. 68) relate to membership in police and fire department relief associations in certain cities who receive state aid.

Sections 69.25 through 69.53 (L. 1933, c. 177) makes it mandatory for cities of the first class to maintain a fireman's relief association. The sections deal with relief, retirement pay, and pensions.

Sections 69.54 through 69.61 (Ex. L. 1934, c. 361, as amended), relate to surcharge on premiums to restore deficiency in the special fund.

69.01 CLERK TO FILE CERTIFICATE.

NOTE: See Chapter 424 relating to firemens relief associations and retirement pensions.

Municipalities served with fire protection are not authorized to collect the two per cent premium tax from town and mutual insurance companies, nor from domestic mutuals. OAG July 12, 1945 (254-d).

69.02 REPORT OF PREMIUMS; CERTIFICATE OF COMMISSIONER.

Filing of a financial report is a prerequisite to the issuance by the state auditor of warrant for state aid to fire department. OAG June 24, 1943 (24-D).

69.04 SPECIAL FUND; DISBURSEMENTS; PAYMENTS TO RELIEF ASSOCIATION.

See as to funeral payments and benefits from special fund. 1944 OAG 186, June 12, 1944 (198-B-3).

69.06 SERVICE PENSION.

Disability pensions or relief payments may be disbursed to disabled firemen in accordance with the articles of incorporation and the by-laws of the association or the rules prescribed by the trustees which are not inconsistent with such articles and by-laws, and a provision which provides for payments to disabled firemen regardless of the origin of the disability would not be unlawful. 1944 OAG 184, June 9, 1943 (198-B-6-d).

Amendment of articles and by-laws must conform to statutory provisions. OAG Aug. 8, 1946 (198-a-3).

In the instant case, a pension is not payable to members eligible for retirement who remain in service, or to retired members who return to active service. 1944 OAG 187, June 13, 1944 (198-A).

MINNESOTA STATUTES 1947 ANNOTATIONS

251

FIRE AND POLICE AID AND RELIEF 69.44

In amending the by-laws of a fire department relief association to provide for lump sum payments, the amount of the sum to be paid must be limited; and should not contain a provision that the amount of prior monthly payments be deducted. OAG Sept. 13, 1945 (198-B-6-a).

69.07 FIREMEN'S RELIEF ASSOCIATION IN CERTAIN CITIES.

At such times as the special fund exceeds \$65,000, pensions in excess of \$75.00 per month may be paid by the fire department relief association of the city of Virginia. OAG Oct. 5, 1945 (688-M).

69.09 DEDUCTIONS FROM SALARIES.

Amended by L. 1947, c. 12, s. 1.

L. 1939, c. 434, and L. 1943, c. 397, are local laws of limited application.

69.22 MEMBERSHIP IN POLICE OR FIRE DEPARTMENT RELIEF ASSOCIATIONS.

Hospitalization plan for benefit of members may be operated by city police relief associations. OAG Jan. 2, 1942 (785-M).

69.25 FIREMEN'S RELIEF ASSOCIATIONS IN CITIES OF FIRST CLASS.

The right of a widow of a pensioned fireman to a pension from defendant is governed by the provisions of the statute under which defendant is organized and in force, at the time of the husband's death. State ex rel v Mpls. Fire Dept. Relief Assn., 205 M 54, 284 NW 884, 205 M 204, 285 NW 479.

69.26 RELIEF ASSOCIATIONS SELF GOVERNING.

Where the by-laws authorizing suspension contained no requirement of notice or that the member must have a hearing, the member nevertheless has a vested right in the membership and must have due notice, time to prepare, and a hearing. Stevens v Mpls. Assn., 124 M 381, 145 NW 35; Burmaster v Alwin, 138 M 383, 165 NW 135.

69.36 FIREMEN'S RELIEF ASSOCIATION IN CERTAIN CITIES; TAX LEVY.

Amended by L. 1947, c. 145, s. 1.

69.361 FIREMEN'S RELIEF ASSOCIATION IN CERTAIN CITIES; TAX LEVY.

HISTORY: L. 1947, c. 145, s. 2.

69.41 ASSOCIATIONS MAY DEFINE SICKNESS AND DISABILITY.

Definition of various phases of disability clarified. Stevens v Mpls. Fire Assn. 219 M 277, 17 NW(2d) 642.

69.43 PERSONS ENTITLED TO RELIEF.

Definition, classification and resume of phases of disability. Stevens v Mpls. Fire Dept. Relief Assn., 219 M 276, 17 NW(2d) 642.

69.44 AMOUNT OF PAYMENTS.

Amended by L. 1947, c. 144, s. 1.

69.45 RETIREMENT PAY.

Amended by L. 1947, c. 144, s. 2.

Questions raised under sections 69.45 and 69.47 in the instant case prevent a justiciable issue under the declaratory judgments act. Claimant, who had served more than 20 years on the fire department, including period of army service, and a dues paying member during that period, and had reached the age of 53 years, is entitled to a pension, even though he did not resume service in the fire department until several years after discharge from the armed forces. *Montgomery v Mpls. Fire Dept. Relief Assn.*, 218 M 27, 15 NW(2d) 122.

69.47 WAR SERVICE INCLUDED IN PERIOD OF SERVICE.

See *Montgomery v Mpls. Fire Dept. Relief Assn.*, 218 M 27, 15 NW(2d) 122.

69.48 PENSIONS TO WIDOWS AND CHILDREN OF MEMBERS.

Under L. 1907, c. 24, as amended by L. 1913, c. 318, the widow of a fireman, otherwise entitled to a pension, who was his common law wife, is not entitled to a pension. Chapter 318 is not unconstitutional as class legislation. *Gibbs v Mpls. Fire Dept. Relief Assn.*, 125 M 174, 145 NW 1075; *Minigar v Mpls. Fire Dept. Relief Assn.*, 126 M 332, 148 NW 279.

The right of the widow of a fireman service pensioner to a pension is determined by the law in force at the time of the pensioner's death, and where the death occurred since L. 1933, c. 177 became effective, the widow is not entitled to such pension unless she resided with the pensioner at the time of his death. *State ex rel v Mpls. Fire Dept. Relief Assn.*, 205 M 204, 285 NW 479.

A child born out of wedlock whose parentage has been acknowledged by the father, in writing, was not a "child" of the father within the meaning of that term as used in a statute providing for pensions to a widow and child. *Jung v St. P. Fire Dept. Relief Assn.*, 224 M —, 27 NW(2d) 152.