

CHAPTER 424

FIREMEN'S RELIEF ASSOCIATIONS AND RETIREMENT PENSIONS

Sec.	Sec.
424.01 Firemen's relief association in cities of second class	424.15 Money to be kept in two funds
424.02 Organization; operation	424.16 Certain moneys to be kept in special fund
424.03 Who are members	424.165 Maintenance of special fund
424.04 Who may apply for membership	424.17 Relief association determines who are entitled to relief
424.05 May exclude certain persons	424.18 May reduce amount of pension
424.06 Officers; trustees	424.19 Who entitled to pension
424.07 Secretary and treasurer to prepare statement of receipts and expenditures	424.20 Members to receive disability benefits
424.08 City clerk to file report of existence of association	424.21 Who are members
424.09 Insurance commissioner to inform insurance companies of existence of associations	424.22 Who may retire
424.10 State auditor to remit funds to relief associations	424.23 Military service included in service
424.11 State treasurer to pay warrants	424.24 Pensions to survivors
424.12 Tax levy for relief association; amount of payments	424.25 Board of examiners
424.13 County treasurer to pay over taxes collected	424.26 Public examiner to examine accounts
424.14 Relief associations to have custody of funds	424.27 Payments exempt from legal process
	424.28 Workmen's compensation act not affected
	424.29 Pensions to be uniform
	424.30 Tax for fire department relief fund
	424.31 Board of trustees of firemen's relief associations

424.01 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. All such associations now existing as such corporations, or hereafter incorporated under the laws of this state, shall have perpetual corporate existence.

[1941 c. 267 s. 1]

424.02 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 the 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 to the regulations and restrictions of sections 424.01 to 424.29, and other laws of this state pertaining to corporations, not inconsistent herewith.

[1941 c. 267 s. 2]

424.03 WHO ARE MEMBERS. A fireman under sections 424.01 to 424.29 is one who is regularly entered on the pay-roll of one of the fire departments, serving on active duty with a designated fire company therein, or having charge of one or more of the companies and engaged in the hazards of fire-fighting; and includes 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 on April 16, 1941, 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.

Sections 424.01 to 424.29 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 law on April 16, 1941. Payment of such pensions and benefits shall be continued by the respective associations, subject only to the provisions of section 424.18.

[1941 c. 267 s. 3]

424.04 WHO MAY APPLY FOR MEMBERSHIP. Every fireman, as defined in section 424.03, 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 pay-rolls 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 pay-roll 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.

[1941 c. 267 s. 4]

424.05 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.

[1941 c. 267 s. 5]

424.06 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 be and is hereby authorized to pay the premiums on such bonds from its general fund.

[1941 c. 267 s. 6]

424.07 SECRETARY AND TREASURER TO PREPARE STATEMENT OF RECEIPTS AND EXPENDITURES. The secretary and treasurer of every association, prior to the first 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 such 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.

[1941 c. 267 s. 7]

424.08 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.

[1941 c. 267 s. 8]

424.09 INSURANCE COMMISSIONER TO 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 require the companies, at the time of making their annual statements to the insurance commissioner, to state on these 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 first 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 such companies upon such insurance premiums.

[1941 c. 267 s. 9]

424.10 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 the companies received in the city upon properties 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.

[1941 c. 267 s. 10]

424.11 STATE TREASURER TO PAY WARRANTS. The state treasurer shall, upon presentation to him of the warrant of the state auditor specified in section 424.10, pay out of the general revenue fund of the state the amount thereof to the treasurer of the relief association presenting the warrant.

[1941 c. 267 s. 11]

424.12 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 not to exceed one mill on all taxable property within the city. When the balance in the special fund of any firemen's relief association in any city of the second class is less than \$75,000 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 one mill on all taxable property in such city. When the fund shall reach or exceed \$75,000, 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 this 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 1, 1941, and who joined 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 these amounts shall be no more than \$100 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 payments thereof enforced when and in like manner as state and county taxes are paid.

[1941 c 267 s 12; 1943 c 567 s 1; 1945 c 241 s 1; 1947 c 28 s 1; 1949 c 139 s 1]

424.13 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 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 the 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 the tax or any part thereof is paid to him, shall likewise pay the same to the treasurer of the relief association in the city as soon as the same has been collected, together with all interest and penalties collected thereon.

[1941 c. 267 s. 13]

424.14 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:

MINNESOTA STATUTES 1949

3167

FIREMEN'S RELIEF AND RETIREMENT 424.165

(1) Funds derived from the State of Minnesota and interest from the investment thereof;

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

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

[1941 c. 267 s. 14]

424.15 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 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.

[1941 c. 267 s. 15]

424.16 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 sections 424.01 to 424.29 and by it set aside and deposited as a special fund, shall be appropriated and disbursed by each such association for the following purposes:

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

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

[1941 c. 267 s. 16]

424.165 MAINTENANCE OF SPECIAL FUND. Subdivision 1. **Surcharge.** When the balance in the special fund of any firemen's relief association in any city of the second class is less than \$50,000 as determined by any such association's board of trustees, which fact shall be duly certified to by the commissioner of administration, such board of trustees may thereupon file its duly verified petition for relief, accompanied by such certificate, with the commissioner of insurance. The commissioner of insurance shall thereupon order and direct a surcharge to be collected of two per cent of the fire, lighting and sprinkler leakage gross premiums, less return premiums, on all direct business received by any foreign or domestic fire insurance company on property in such city of the second class, or by its agents for it, in cash or otherwise, until the balance in the special funds of such relief association amounts to \$50,000 and for a period of 15 days thereafter. As soon as the balance in said special fund amounts to \$50,000 the board of trustees of such relief association shall certify that fact to the commissioner of insurance and the commissioner of insurance shall forthwith issue his order ordering and directing that the collection of such surcharge shall be discontinued after the expiration of said 15-day period and shall forthwith mail a copy of the order last mentioned to each insurance company affected thereby. Said surcharge shall be due and payable from such companies to the state treasurer in semiannual instalments on June 30th and December 31st of each calendar year to be kept by the state treasurer in a separate fund and if not paid within 30 days after such dates a penalty of three per cent shall accrue thereon and thereafter such sum and penalty shall draw interest at the rate of one per cent per month until paid.

Subd. 2. State auditor to issue warrant. The state auditor on July 31, 1938, and semiannually thereafter, shall issue and deliver to the treasurer of such relief association in such city his warrant upon the state treasurer for an amount equal to the total amount of said surcharge on said premiums within such city theretofore so collected and transmitted to the state treasurer by such insurance companies. Said warrants shall be paid out of said separate fund hereinbefore provided for, and the payment in each case shall be made to the treasurer of the relief association presenting the warrant.

Subd. 3. Funds to be kept in special fund. The treasurer of such relief association shall place the money received by him in payment of any such warrant in the special fund of such relief association.

Subd. 4. Emergency declared to exist. An emergency exists and this section shall be construed as a relief measure for firemen's relief associations in any city of the second class.

[1937 c. 109 ss. 1, 2, 3, 4] (1648-1, 1648-2, 1648-3, 1648-4)

424.17 RELIEF ASSOCIATION DETERMINES 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 sections 424.01 to 424.29.

[1941 c. 267 s. 17]

424.18 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; when its total funds, as determined by its board of trustees, are less than \$25,000 and within the limits described in sections 424.01 to 424.29, the associations shall have and retain the right to increase or otherwise adjust the pensions and benefits after same have been so reduced.

[1941 c. 267 s. 18]

424.19 WHO 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.

[1941 c. 267 s. 19]

424.20 MEMBERS TO RECEIVE DISABILITY BENEFITS. A member of any such relief association entitled to disability benefits shall receive the same from his association for such periods of time, at such times, and in such amounts not to exceed \$75 per month as the by-laws of the association provide.

[1941 c. 267 s. 20]

424.21 WHO ARE MEMBERS. A member of the association, as defined in section 424.03, 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 pay roll of the fire department be entitled to a pension of not less than \$50 nor more than \$75 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 him to accept an appointive position in the 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 these increases, or any portion thereof; provided, that in no event shall the total pension exceed the sum of \$75 per month.

[1941 c. 267 s. 21]

424.22 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.

[1941 c. 267 s. 22]

424.23 MILITARY SERVICE 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 the 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.

[1941 c. 267 s. 23]

424.24 PENSIONS TO SURVIVORS. When a service pensioner, disability pensioner, or deferred pensioner, or an active member of such relief association dies, leaving:

(1) A widow who became his legally married wife while or prior to the time he was on the pay-roll 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 the 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;

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

(a) To such a widow a pension of not less than \$25 and not to exceed \$50 per month as the by-laws of the association provide, for her natural life; provided, that if she remarry such pension shall cease and terminate as of the date of her remarriage;

(b) To such child or children, if their mother is living, a pension of not to exceed \$15 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 the deceased member shall not exceed the sum of \$75 per month;

(c) 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 the 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 per month.

[1941 c. 267 s. 24]

424.25 BOARD OF EXAMINERS. The relief association shall establish a board of examiners who shall, as and when requested by the association's board of trustees, make a thorough investigation and 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.

[1941 c. 267 s. 25]

424.26 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 sections 424.01 to 424.29, 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.

[1941 c. 267 s. 26]

424.27 PAYMENTS EXEMPT FROM LEGAL PROCESS. All payments made or to be made by any relief associations under any of the provisions of sections 424.01 to 424.29 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.

[1941 c. 267 s. 27]

424.28 WORKMEN'S COMPENSATION ACT NOT AFFECTED. Sections 424.01 to 424.29 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.

[1941 c. 267 s. 28]

424.29 PENSIONS TO BE UNIFORM. All pensions paid to firemen or their widows pursuant to the provisions of sections 424.01 to 424.29 shall be uniform except as may be specifically provided for therein.

[1941 c. 267 s. 31]

424.30 TAX FOR FIRE DEPARTMENT RELIEF FUND. The council or other governing body of each village and city in this state, other than cities of the first and second class and other than any city or village operating under Laws 1935, Chapters 153, 192, and 208, and Laws 1939, Chapter 434, and Laws 1941, Chapter 196, or acts amendatory thereof, which has a regularly organized fire department, shall each year, at the time the tax levies are made for the support of the village or city, and in addition thereto, levy a tax of one-tenth of a mill on all the taxable property of such village or city. The tax so levied shall be transmitted to the auditor of the county in which the village or city is situated at the time all other tax levies are transmitted, and shall be collected and payment thereof enforced. The village or city treasurer, when the tax is received by him, shall pay the same over to the treasurer of the duly incorporated firemen's relief association of such village or city, if there is one organized, together with all penalties and interest collected thereon; but if there is no firemen's relief association so organized in any such village or city, or if any such association resign, be removed or has heretofore resigned or has been removed as trustee of such money, then the treasurer of such municipality shall keep the money in a special fund to be disbursed only for the purpose authorized by sections 424.30 and 424.31. The council of any village or city in this state which now has or hereafter may have less than 50,000 inhabitants is hereby authorized and empowered, when in its discretion it deems it necessary or desirable so to do, to levy on the taxable property of such village or city an additional amount not to exceed nine-tenths of one mill; such additional tax to be collected and disbursed as herein provided.

[1909 c. 197 s. 1; 1937 c. 349 s. 1; 1943 c. 323 s. 1] (1919)

424.31 BOARD OF TRUSTEES OF FIREMEN'S RELIEF ASSOCIATIONS. The board of trustees of every firemen's relief association of this state shall be composed of the following persons: Six trustees elected annually by such firemen's relief association from its own members and the following ex officio members taken from the officers of the municipality in which the relief association is located, the mayor or president, the recorder or clerk, the treasurer, and the chief of the fire department thereof; and any such board of trustees of a duly incorporated relief association shall have exclusive control and management of all funds received by its treasurer under the provisions of sections 424.30 and 424.31, funds derived from the State of Minnesota, and all moneys or property donated, given, granted, or devised for the benefit of these funds, and such funds when received shall be kept in a special fund on the books of the secretary and treasurer of the association and never disbursed for any purpose except the following:

- (1) For the relief of sick, injured, and disabled members of any fire department in such village or city;
- (2) For the payment of pensions to disabled firemen and the widows and orphans of firemen;
- (3) For the payment of pensions to retired firemen pursuant to the laws of the state;
- (4) For the payment of the fees, dues, and assessments in the Minnesota state volunteer firemen's benefit association so as to entitle the members of any fire department to membership in and benefits of such state association;

MINNESOTA STATUTES 1949

3171

FIREMEN'S RELIEF AND RETIREMENT 424.31

(5) For the payment of such death or funeral benefits as may be from time to time stipulated in the by-laws of the respective relief associations; and

(6) For the payment of necessary expenses of administering such fund, including the secretary's and treasurer's salaries.

The term "widow" means a woman who was the wife of a fireman or pensioner during the time he was an active fireman, provided that she was married to him three or more years prior to the time when such fireman retired as a service pensioner. The term "widow" shall not include the surviving wife who has deserted a fireman or pensioner or who has not been dependent upon him for support.

The funds received by any relief association from dues, fines, initiation fees, and entertainments shall be kept in a fund called the general fund and may be disbursed for any purposes authorized by the articles of incorporation and by-laws of the association. The relief association is hereby authorized and empowered to invest its funds in such income-paying properties and securities as the council of the village or city in which such organization is located shall from time to time authorize. Benefits shall in all cases be within the limits authorized by state law and in accordance with the articles of incorporation and by-laws of the association.

[1909 c. 197 s. 2; 1923 c. 163 s. 1; 1929 c. 166; 1931 c. 71; 1933 c. 135; 1937 c. 349 s. 2; 1945 c. 206 s. 1] (1920)