

# MINNESOTA STATUTES 1953 ANNOTATIONS

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POLICE PENSIONS 423.011

422.24-422.29 Repealed, 1945 c 50 s 1.

422.31-422.35 Repealed, 1945 c 51 s 1.

422.36 Repealed, 1945 c 48 s 2.

## **422.37 RETIREMENT ALLOWANCE; CONTRIBUTING EMPLOYEES; 20-YEAR SERVICE**

HISTORY. Amended, 1951 c 170 s 1.

422.38 Renumbered 422.37, subdivision 2.

422.39 Renumbered 422.37, subdivision 3.

422.40 Renumbered 422.37, subdivision 4.

422.41 Renumbered 422.37, subdivision 5.

422.42 Renumbered 422.37, subdivision 6.

422.44 Renumbered 422.43, subdivision 2.

422.45 Renumbered 422.43, subdivision 3.

422.47 Renumbered 423.075.

## **422.48 RETIREMENT ALLOWANCES INCREASED**

HISTORY. 1949 c 408 s 1.

## **422.49 METHOD OF COMPUTING AND DETERMINING NOT CHANGED**

HISTORY. 1949 c 408 s 2.

## **422.50 COST OF INCREASE DETERMINED IN CONNECTION WITH SECTION 422.13**

HISTORY. 1949 c 408 s 3.

## **422.51 EFFECTIVE TERM OF THIS ACT; REFERENDUM, BALLOT**

HISTORY. 1949 c 408 s 4.

## **CHAPTER 423**

### **POLICE PENSIONS**

423.01-423.07 Repealed, 1945 c 47 s 10.

### **ST. PAUL**

#### **423.011 POLICE RELIEF ASSOCIATION**

HISTORY. 1945 c 47 s 1; 1949 c 79 s 1; 1953 c 59 s 1.

One of the essential elements of equitable estoppel is that the party asserting the estoppel acted, or failed to act, in reliance upon the representation claimed to give rise to the estoppel whereby he has changed his position for the worse. A change of position for the worse as a basis for estoppel cannot be presumed and is a matter of calling for proof. *Saaf v Duluth Police Pension Assn.*, ..... M ....., 59 NW(2d) 883.

In order to have a proper foundation for a finding of causal connection, in cases where such connection must be established solely by expert testimony, the medical expert must, upon an adequate factual foundation, testify not only that in his professional opinion the injury in question might have caused or contributed to the subsequent death of the injured person but further that such injury did cause or contribute to decedent's death. Such medical testimony need not be couched in any particular words or by the expression of absolute certainty. *Saaf v Duluth Police Pension Assn.*, ..... M ....., 59 NW(2d) 883.

**423.021 PAYMENTS, LIMITATIONS**

HISTORY. 1945 c 47 s 3; 1949 c 79 s 2; 1953 c 59 s 2.

**423.023 MEMBER**

HISTORY. 1945 c 47 s 5; 1953 c 59 s 3.

**423.031 PENSIONS; LIMITATIONS**

HISTORY. 1945 c 47 s 6; 1949 c 79 s 3.

**423.035 POWERS AND DUTIES OF RELIEF ASSOCIATION**

HISTORY. 1945 c 47 s 7; 1949 c 79 s 4.

**423.063** Repealed, 1953 c 127 s 9.

**423.069** Repealed, 1953 c 127 s 9.

**CITIES FIRST CLASS****423.075 COMPULSORY RETIREMENT OF CERTAIN EMPLOYEES OF POLICE AND FIRE DEPARTMENTS**

A fire-fighter, employed in the department of public safety of the city of St. Paul, who is a veteran as defined in the Veterans Preference Act, cannot be compelled to retire at the age of 65 years. He can only be separated from the service of the city in conformity with the Veterans Preference Act. OAG Nov. 30, 1953 (120).

**CITIES SECOND CLASS****423.13 RELIEF ASSOCIATION, INCORPORATION; PENSIONS, PAYMENT**

HISTORY. 1919 c 152 s 2; MS 1927 s 1643-2; 1929 c 31 s 1; 1939 c 122 s 1; 1943 c 382 s 1; 1945 c 199 s 2; 1947 c 191 s 1; 1949 c 138 s 1; 1951 c 467 s 1.

Unless the articles of incorporation and bylaws prohibit it a retired policeman, retired under section 423.13, may accept outside employment. OAG Dec. 7, 1949 (785-J).

A disabled policeman, who resigned from the department more than a year ago to become a deputy sheriff, and who accepted a refund of his deductions, is not eligible under the constitution and bylaws of the association for a disabled pension now. OAG Feb. 7, 1950 (785-J).

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POLICE PENSIONS 423.376

A police officer who retires on a disability pension or on a service pension cannot thereafter be reinstated in his former position. OAG Nov. 15, 1950 (785-J).

## 423.155 PAYMENTS TO WIDOWS AND CHILDREN

HISTORY. 1945 c 199 s 6; 1949 c 138 s 2.

## 423.17 FUND; MANAGEMENT, CONTROL

HISTORY. 1919 c 152 s 6; MS 1927 s 1643-6; 1945 c 199 s 8; 1943 c 162 s 1; 1951 c 374 s 1.

A disabled policeman who resigned from the police department more than a year ago to become a deputy sheriff and who accepted a refund of his deductions is not eligible under the provisions of the constitution and bylaws of the association for pension now. OAG Feb. 7, 1950 (785-J).

## 423.201 PENSIONS AND BENEFIT, PAYMENT

HISTORY. 1945 c 199 s 12; 1951 c 464 s 1.

### CITIES FOURTH CLASS

## 423.25 RETIREMENT PENSION

HISTORY. 1935 c 170 s 4; 1943 c 116 s 2; 1953 c 376 s 1.

Policemen in the city of Eveleth who retired prior to April 17, 1953, the date of the increase in police pensions, are not entitled to the increase. Their rights were fixed by the law in force and effect at the time they first became pensioners. OAG Nov. 23, 1953 (785-J).

## 423.26 RETIREMENT AGE

HISTORY. 1935 c 170 s 5; 1953 c 376 s 2.

### CITIES THIRD CLASS

## 423.37 POLICE DEPARTMENT MAY FORM RELIEF ASSOCIATION IN CERTAIN CITIES

Members of a police relief association organized under sections 423.37 to 423.392 need not remain members of the public employees retirement association and may obtain a refund of accumulated salary deductions therefrom. OAG June 27, 1952 (331-B-5).

The police relief association of the city of Moorhead may come under Laws 1947, Chapter 625, upon the adoption of the resolution provided for therein. OAG Nov. 13, 1952 (785-M).

Cities of third class may not deduct more than two percent from the salaries of policemen for the benefits of the policemen's relief association. OAG Dec. 9, 1952 (785-M).

## 423.371 ORGANIZATION, OPERATION

HISTORY. 1943 c 521 s 2; 1943 c 321 s 2; 1947 c 625 s 2; 1953 c 35 s 1.

## 423.376 TAX LEVY

HISTORY. 1943 c 521 s 7; 1947 c 625 s 4; 1949 c 496 s 1; 1951 c 249 s 1; 1953 c 35 s 2.

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 423.377 POLICE PENSIONS

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A tax levy authorized under section 423.376 is within the per capita tax limitation of section 275.11. OAG Dec. 8, 1950 (519-C).

The tax levy for police relief associations in cities of third class is in addition to all other taxes levied by the city. OAG Feb. 27, 1952 (519-C).

## 423.377 SALARY DEDUCTIONS

HISTORY. 1943 c 521 s 8; 1947 c 625 s 5; 1953 c 35 s 3.

## 423.384 SERVICE PENSIONS

HISTORY. 1943 c 521 s 16; 1947 c 625 s 9; 1949 c 496 s 2; 1953 c 35 s 4.

A benefit under the Mankato policemen's benefit association must be computed in accordance with the law in effect at the time of the retirement. The statute prevails over the provisions of the bylaws of the association. OAG March 19, 1951 (785-J).

## 423.387 BENEFITS; PENSIONERS, SURVIVORS

HISTORY. 1943 c 521 s 18; 1947 c 625 s 10; 1953 c 35 s 5.

## 423.392 APPLICATION

HISTORY. 1947 c 525 s 13; 1951 c 60 s 1.

Members of a police relief association organized under sections 423.37 to 423.392 need not remain members of the public employees retirement association and may obtain a refund of accumulated salary deductions therefrom. OAG June 27, 1952 (331-B-5).

## CITIES FOURTH CLASS

### 423.41 POLICEMEN'S RELIEF ASSOCIATION; CITIES EMPLOYING FIVE OR MORE POLICEMEN

HISTORY. 1947 c 624 s 1.

A police relief association may be organized under the provisions of sections 423.41 to 423.62 and the policeman in service at the time the association was set up would become a member thereof and when he has completed the necessary years of service or when he has arrived at the required age he will on retirement be entitled to a service pension. The city council is without authority to modify the provisions of the state statute nor may the association change the requirements of the statutes by adopting bylaws. Payroll deductions cannot be given until the association is fully organized. Relief associations created under the provisions of Laws 1947, Chapter 624, have perpetual existence and they remain subject to the law under which they are incorporated and the fact that a fourth class city afterwards becomes a city of the third class will not change the law under which the relief association was incorporated. OAG Feb. 3, 1950.

### 423.50 GENERAL FUND; SPECIAL FUND

The city's general and special funds are distinguished from the general and special funds of the policemen's relief associations. Where a special fund of the association is insufficient to pay a pension, there is no authority for the city to make payment thereof out of the city's general fund; if the association has moneys in or available to its general funds, sufficient amount thereof may be transferred to the association's special fund to pay the pension until the tax receipts restore the special fund. OAG June 4, 1953 (785-J).

# MINNESOTA STATUTES 1953 ANNOTATIONS

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POLICE PENSIONS 423.765

## **423.55 COMPLETION OF PERIOD OF SERVICE; AGE; RETIREMENT; SERVICE PENSION**

The city's general and special funds are distinguished from the general and special funds of the policemen's relief associations. Where a special fund of the association is insufficient to pay a pension, there is no authority for the city to make payment thereof out of the city's general fund; if the association has moneys in or available to its general funds, sufficient amount thereof may be transferred to the association's special fund to pay the pension until the tax receipts restore the special fund. OAG June 4, 1953 (785-J).

## **MINNEAPOLIS**

### **423.71 DEFINITIONS**

HISTORY. 1953 c 127 s 1.

### **423.715 POLICEMEN'S RELIEF ASSOCIATION**

HISTORY. 1949 c 406 s 1; 1953 c 127 s 2.

### **423.72 INCORPORATION, GOVERNMENT BY BOARD**

HISTORY. 1949 c 406 s 1; 1953 c 127 s 2.

### **423.725 PENSION OR BENEFIT FUND**

HISTORY. 1949 c 406 s 3; 1953 c 127 s 3.

### **423.73 SOURCES OF FUNDS**

HISTORY. 1949 c 406 s 3; 1953 c 127 s 3.

### **423.735 TAX LEVY**

HISTORY. 1949 c 406 s 4; 1953 c 127 s 4.

### **423.74 PENSION FUND; USES**

HISTORY. 1949 c 406 s 4; 1953 c 127 s 4.

### **423.745 PENSIONS**

HISTORY. 1949 c 406 s 5; 1953 c 127 s 5.

### **423.75 PENSIONS, BENEFITS**

HISTORY. 1949 c 406 s 6; 1953 c 127 s 6.

### **423.755 PERSONS NOT ENTITLED TO PENSIONS**

HISTORY. 1949 c 406 s 7; 1953 c 127 s 7.

### **423.76 SUIT FOR BENEFITS; BOND**

HISTORY. 1949 c 406 s 7; 1953 c 127 s 7.

### **423.765 PAYMENTS EXEMPT FROM PROCESS; ASSIGNMENTS FORBIDDEN**

HISTORY. 1949 c 406 s 7; 1953 c 127 s 7.

### 423.77 RIGHTS AND BENEFITS SAVED

HISTORY. 1953 c 127 s 7.

### 423.775 MEMBERS NOW RECEIVING BENEFITS; RIGHTS

HISTORY. 1953 c 127 s 8.

## CHAPTER 424

### FIREMEN'S RELIEF AND RETIREMENT

#### 424.12 TAX LEVY; SALARY DEDUCTIONS; BENEFIT PAYMENTS

HISTORY. 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; 1951 c 522 s 1; 1953 c 234 s 1.

Provisions of section 424.12 relating to fire department relief associations, as amended by Laws 1947, Chapter 28, providing for one mill tax levy where special fund is less than \$50,000, are mandatory. Such tax levy may be compelled by mandamus. OAG Nov. 8, 1948 (519-C).

#### 424.30 TAX FOR RELIEF FUND

HISTORY. 1909 c 197 s 1; MS 1927 s 1919; 1937 c 349 s 1; 1943 c 323 s 1; 1953 c 379 s 1; 1953 c 521 s 2.

A pension may be paid to retired firemen who are disabled even though the disability did not originate with his service. OAG May 20, 1948 (198-B-6-D).

The levy of a tax of one-tenth of a mill is mandatory. OAG Dec. 18, 1947 (198-B-8).

The one-tenth of a mill tax levy to support the fire department relief association must be levied annually regardless of any charter provision. If the tax is omitted in one year it may not be added to the taxes of a later year. OAG Sept. 27, 1947 (519-C).

Neither section 63.36 as amended nor section 69.09 as reenacted by Laws 1953, Chapter 399, applies to the city of Willmar, a city of fourth class. Section 424.30, as amended by Laws 1953, Chapters 379, 521, might apply. OAG Nov. 3, 1953 (519-C).

Towns within the classification outlined in Laws 1949, Chapter 722, do not possess the power to levy a tax as provided in section 424.30. OAG March 1, 1950 (519-O).

A town cannot levy a general property tax, the proceeds of which are to be used for firemen's relief purposes. OAG May 5, 1950 (519-O).

Proceeds from the insurance premium tax under section 69.03 or from a tax levied under section 424.30 may not be used for the purchase of fire fighting equipment in a municipality having an organized firemen's relief association. OAG Dec. 13, 1950 (688-C-1).

Notwithstanding the inconsistency between sections 69.04 and 69.06, under the provisions of sections 69.06, 424.30, and 424.31, funds received by the fire department relief association from the state may be used in accordance with its articles of incorporation and bylaws and in conformity with section 69.06 for the payment of service pensions. OAG May 20, 1948 (688-M).

The trustees of a firemen's relief association in a city of fourth class may, in its honest discretion, pay sick benefits even though the sick fireman continued to receive his regular compensation while ill. OAG Feb. 11, 1949 (688-M).