

CHAPTER 424A

VOLUNTEER FIREFIGHTER'S RETIREMENT

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424A.001 DEFINITIONS.

Subdivision 1. **Terms defined.** As used in chapter 424A, the terms defined in this section have the meanings given.

Subd. 2. **Fire department.** "Fire department" includes municipal fire department and independent nonprofit firefighting corporation.

Subd. 3. **Municipality.** "Municipality" means a municipality which has a fire department with which the relief association is directly associated, or the municipalities which contract with the independent nonprofit firefighting corporation of which the relief association is a subsidiary.

Subd. 4. **Relief association.** "Relief association" means (a) a volunteer firefighters' relief association or volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association organized and incorporated under chapter 317 and any laws of the state, governed by this chapter and chapter 69, and directly associated with a fire department established by municipal ordinance; or (b) any separate incorporated volunteer firefighters' relief association subsidiary to and providing service pension and retirement benefit coverage for members of an independent nonprofit firefighting corporation organized under the provisions of chapter 317, governed by this chapter, and operating exclusively for firefighting purposes. A relief association is a governmental entity that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response.

Subd. 5. **Special fund.** "Special fund" means special fund of a volunteer firefighters' relief association or the account for volunteer firefighters within the special fund of a partially salaried and partially volunteer firefighters' relief association.

Subd. 6. **Surviving spouse.** For purposes of this chapter, and the governing bylaws of any relief association to which this chapter applies, the term "surviving spouse" means any person who was the dependent spouse of a deceased active member or retired former member living with the member at the time of the death of the active member or retired former member for at least one year prior to the date on which the member terminated active service and membership.

Subd. 7. **Fiduciary responsibility.** In the discharge of their respective duties, the officers and trustees shall be held to the standard of care enumerated in section 11A.09.

Each member of the board is a fiduciary. No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:

- (1) sale or exchange or leasing of any real property between the relief association and a board member;
- (2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;
- (3) furnishing of goods, services, or facilities between the relief association and a board member; or

(4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

History: 1983 c 219 s 4; 1986 c 359 s 18,19; 1Sp1986 c 3 art 2 s 40

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

Subdivision 1. Minors. It is unlawful for any municipality or independent nonprofit firefighting corporation to employ a minor as a volunteer firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a volunteer fire department.

Subd. 2. Status of substitute or probationary volunteer firefighters. No person who is serving as a substitute or a probationary volunteer firefighter shall be deemed to be a firefighter for purposes of chapter 69 or this chapter nor shall be authorized to be a member of any volunteer firefighters' relief association governed by chapter 69 or this chapter.

Subd. 3. Status of nonmember volunteer firefighters. No person who is serving as a firefighter in a fire department but who is not a member of the applicable firefighters' relief association shall be entitled to any service pension or ancillary benefits from the relief association.

Subd. 3a. Service credit for certain probationary volunteer firefighters. Unless the bylaws of the relief association clearly provide to the contrary, any person:

(a) who has served as a probationary volunteer firefighter with a fire department with which a relief association is directly associated; and

(b) who is a member of that relief association; is entitled to have the period of service as a probationary volunteer firefighter credited as a period of active service as an active member of the fire department for purposes of calculating a service pension or ancillary benefits.

Subd. 4. Exclusion of persons constituting an unwarranted health risk. The board of trustees of every relief association may exclude from membership in the relief association all applicants who, due to some medically determinable physical or mental impairment or condition, would constitute a predictable and unwarranted risk of imposing liability for an ancillary benefit at any age earlier than the minimum age specified for receipt of a service pension. Notwithstanding any provision of section 363.02, subdivision 5, it shall be a good and valid defense to a complaint or action brought under chapter 363 that the board of trustees of the relief association made a good faith determination that the applicant suffers from an impairment or condition constituting a predictable and unwarranted risk for the relief association if the determination was made following consideration of: (a) the person's medical history; and (b) the report of the physician completing a physical examination of the applicant completed at the expense of the relief association.

History: 1979 c 201 s 11; 1981 c 224 s 274; 1982 c 460 s 7; 1983 c 219 s 5

424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.

Subdivision 1. Authorization. Any 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 the age of 50 years; (3) completes at least ten years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least ten years of active membership with the relief association prior to separation from active service; and (5) complies with any additional conditions as to age, service and membership which are prescribed by the bylaws of the relief association. The service pension may be paid whether or not the municipality or nonprofit 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 ten 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 ten years of active membership with the relief association prior to separation from active service may be waived by the board of trustees of the relief association if the member completes at least ten years of inactive membership with the relief association prior to the payment of the service pension. During the period of inactive membership, the member shall not be entitled to receive any disability benefit coverage, shall not be entitled to receive any additional service credit towards computation of a service pension, and shall be deemed to have the status of a person entitled to a deferred service pension pursuant to subdivision 7.

No municipality or nonprofit firefighting corporation is authorized to 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 which this chapter would allow rather than a specific dollar amount or level.

No relief association as defined in section 424A.001, subdivision 4, shall pay a service pension or disability benefit to any 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.

Subd. 2. Nonforfeitable portion of service pension. If the articles of incorporation or bylaws of a relief association so provide, a relief association may pay a reduced service pension to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

The amount of the reduced service pension shall not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the bylaws times the applicable nonforfeitable percentage of pension. The applicable nonforfeitable percentage of pension amounts are as follows:

Completed Years of Service	Nonforfeitable Percentage of Pension Amount
10	60 percent
11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent
16	84 percent
17	88 percent
18	92 percent
19	96 percent
20 and thereafter	100 percent

Subd. 3. Flexible service pension maximums. 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

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2 and 4; or 69.774, subdivision 2, if any. The maximum service pension which the relief association may 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 be determined using the applicable following table.

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 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) the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

Minimum Average Amount of Available Financing per Firefighter	Maximum Service Pension Amount Payable per Month for Each Year of Service
\$...	\$.25
37	.50
75	1.00
112	1.50
149	2.00
186	2.50
224	3.00
261	3.50
298	4.00
336	4.50
373	5.00
447	6.00
522	7.00
597	8.00
671	9.00
746	10.00
820	11.00
895	12.00
969	13.00
1044	14.00
1119	15.00
1193	16.00
1268	17.00
1342	18.00
1417	19.00
1491	20.00
1566	21.00
1640	22.00
1678 or more	22.50

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 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 the calculation; or (2) the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

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Minimum Average Amount of Available Financing per Firefighter	Maximum Lump Sum Service Pension Amount Payable for Each Year of Service
\$.	\$10
10	20
14	30
20	40
24	50
28	60
38	80
48	100
58	120
68	140
76	160
86	180
96	200
116	240
134	280
154	320
172	360
192	400
212	440
230	480
250	520
268	560
288	600
308	640
326	680
346	720
364	760
384	800
432	900
480	1000
528	1100
576	1200
624	1300
672	1400
720	1500
768	1600
816	1700
864	1800
912	1900
960	2000
1008	2100
1056	2200
1104	2300
1152	2400
1200	2500
1248	2600
1296	2700
1344	2800
1392	2900
1440 or more	3000

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 be determined using the applicable table contained in this subdivision.

Subd. 4. Defined contribution lump sum service pensions. If the bylaws governing the relief association so provide exclusively, the relief association may pay a defined contribution lump sum service pension in lieu of any defined benefit service pension governed by subdivision 2. An individual account for each firefighter who is a member of the relief association shall be established. To each individual member account shall be credited a right to an equal share of: (a) any amounts of fire state aid received by the relief association; (b) 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 (c) any amounts equal to the share of the assets of the special fund to the credit of: (1) any former member who terminated active service with the fire department to which the relief association is associated prior to meeting the minimum service requirement provided for in subdivision 1 and has not returned to active service with the fire department for a period no shorter than five years; or (2) any retired member who retired prior to obtaining a full nonforfeitable interest in the amounts credited to the individual member account pursuant to subdivision 2 and any applicable provision of the bylaws of the relief association. In addition, any interest or investment income earned on the assets of the special fund shall be credited in proportion to the share of the assets of the special fund to the credit of each individual member account. At the time of retirement pursuant to subdivision 1 and any applicable provision of the bylaws of the relief association, a retiring member shall be entitled to that portion of the assets of the special fund to the credit of the member in the individual member account which is nonforfeitable pursuant to subdivision 2 and any applicable provision of the bylaws of the relief association based on the number of years of service to the credit of the retiring member.

Subd. 5. Service credit maximum. No relief association for which the governing bylaws provide a monthly service pension to a retiring member shall credit any member with service in excess of 30 years. For a member of a relief association who, as of July 1, 1979, has received credit for service in excess of 30 years, the limitation on the crediting of further service credit provided for in this subdivision applies to any additional years of service occurring after July 1, 1979.

Subd. 6. Payment of service pensions; nonassignability. The method of calculating service pensions shall be applied uniformly for all years of active service and credit shall be given for all years of active service, except as otherwise provided in this section. No service pension shall be paid to any person while the person remains an active member of the respective fire department, and no person who is receiving a service pension shall be entitled to receive any other benefits from the special fund of the relief association. No service pension or ancillary benefits paid or payable from the special fund of a relief association to any person receiving or entitled to receive a service pension or ancillary benefits shall be subject to garnishment, judgment, execution, or other legal process, except as provided in section 518.58, 518.581, or 518.611. No person entitled to a service pension or ancillary benefits from the special fund of a relief association may assign any service pension or ancillary benefit payments, nor shall the association have the authority to recognize any assignment or pay over any sum which has been assigned.

Subd. 7. Deferred service pensions. A member of a relief association to which this section applies is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least ten years of active membership in the relief association; and

(3) separates from active service and membership prior to reaching the age of 50 years or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than the age

of 50 years. The deferred service pension shall commence when the former member reaches the age of 50 years or the minimum age specified in the bylaws governing the relief association if that age is greater than the age of 50 years and when the former member makes a valid written application. Any relief association which provides a lump sum service pension may, when its governing bylaws so provide, pay interest on the deferred lump sum service pension during the period of deferral. If provided for, interest shall be paid at the rate actually earned by the relief association, but not to exceed the interest rate specified in section 356.215, subdivision 4d, and shall be compounded annually based on calendar year balances. The deferred service pension shall be governed by and shall be calculated pursuant to any general statute, special law, relief association articles of incorporation or relief association bylaw provisions applicable as of the date on which the member separated from active service with the fire department and active membership in the relief association.

Subd. 8. Lump sum service pensions; installment payments. Any relief association, if the governing bylaws so provide, may pay, at the option of the retiring member and in lieu of a single payment of a lump sum service pension, a lump sum service pension in installments.

The election of installment payments shall be irrevocable and shall be made by the retiring member in writing and filed with the secretary of the relief association no later than 30 days prior to the commencement of payment of the service pension. The amount of the installment payments shall be determined so that the present value of the aggregate installment payments computed at an interest rate of five percent, compounded annually, is equal to the amount of the single lump sum payment which would have been made had the installment payments option not been elected. The payment of each installment shall include interest at the rate of five percent, compounded annually on the reserve supporting the remaining installment payments as of the date on which the previous installment payment was paid and computed from the date on which the previous installment payment was paid to the date of payment for the current installment payment.

To the extent that the commissioner of commerce deems it to be necessary or practical, the commissioner may specify and issue procedures, forms or mathematical tables for use in performing the calculations required pursuant to this subdivision.

Subd. 8a. Purchase of annuity contracts. A relief association providing a lump-sum service pension, if the governing articles of incorporation or bylaws so provide, may purchase an annuity contract on behalf of a retiring member in an amount equal to the service pension otherwise payable at the request of the person and in place of a direct payment to the person. The annuity contract must be purchased from an insurance carrier licensed to do business in this state and approved for this product by the commerce commissioner under section 60A.40.

Subd. 9. Limitation on ancillary benefits. Any relief association, including any volunteer firefighters relief association governed by section 69.77 or any volunteer firefighters division of a relief association governed by chapter 424, may only pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following limitations:

(a) With respect to a relief association in which governing bylaws provide for a lump sum service pension to a retiring member, no ancillary benefit may be paid to any former member or paid to any person on behalf of any former member after the former member (1) terminates active service with the fire department and active membership in the relief association; and (2) commences receipt of a service pension as authorized pursuant to this section; and

(b) With respect to any relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension shall be calculated using the service pension amount specified in the bylaws of the relief association and the years of service credited to the member or former member. The years of service shall be

determined as of (1) the date the member or former member became entitled to the ancillary benefit; or (2) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit shall be calculated (1) without regard to whether the member or former member had attained the minimum amount of service and membership credit specified in the governing bylaws; and (2) without regard to the percentage amounts specified in subdivision 2; except that the bylaws of any relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

Subd. 9a. Postretirement increases. Notwithstanding any provision of general or special law to the contrary, a relief association paying a monthly service pension may provide a postretirement increase to retired members and ancillary benefit recipients of the relief association if (1) the relief association adopts an appropriate bylaw amendment; and (2) the bylaw amendment is approved by the municipality pursuant to subdivision 10 and section 69.773, subdivision 6. The postretirement increase shall be applicable only to retired members and ancillary benefit recipients receiving a service pension or ancillary benefit as of the effective date of the bylaw amendment. The authority to provide a postretirement increase to retired members and ancillary benefit recipients of a relief association contained in this subdivision shall supersede any prior special law authorization relating to the provision of postretirement increases.

Subd. 10. Local approval of bylaw amendments; filing requirements. Each relief association to which this section applies shall file a revised copy of its governing bylaws with the commissioner of commerce upon the adoption of any amendment to its governing bylaws by the relief association or upon the approval of any amendment to its governing bylaws granted by the governing body of each municipality served by the fire department to which the relief association is directly associated. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the commissioner of commerce shall disqualify the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

If the special fund of the relief association does not have a surplus over full funding pursuant to section 69.772, subdivision 3, clause (2), subclause (e), or 69.773, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association pursuant to section 69.772 or 69.773, no bylaw amendment which would affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses authorized pursuant to section 69.80 payable from the special fund of the relief association shall be effective until it has been ratified by the governing body or bodies of the appropriate municipalities. If the municipality is not required to provide financial support to the special fund pursuant to this section, the relief association may adopt or amend without municipal ratification its articles of incorporation or bylaws which increase or otherwise affect the service pensions or ancillary benefits payable from the special fund so long as the changes do not cause the amount of the resulting increase in the accrued liability of the special fund to exceed 90 percent of the amount of the prior surplus over full funding and the changes do not result in the financial requirements of the special fund exceeding the expected amount of the future fire state aid to be received by the relief association.

If the relief association pays only a lump sum pension, the financial requirements are to be determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If the relief association pays a monthly benefit service pension, the financial requirements are to be determined by the board of trustees following either an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its

articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund pursuant to this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification shall no longer be effective without municipal ratification, and any service pensions or ancillary benefits payable after that date shall be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

Subd. 11. Distribution of assets upon dissolution in certain cases. If the fire department which is associated with a relief association is dissolved or eliminated by action of the governing body of the municipality in which the fire department is located, the relief association shall distribute its assets and be dissolved in the following manner:

(1) Within six months after the dissolution of the fire department, the board of trustees of the relief association shall convert all of the assets of the relief association to cash or negotiable instruments.

(2) The board shall then determine and pay all of the legal obligations of the association, including the costs related to dissolution of the corporate existence of the association, but excluding pension obligations to members.

(3) After payment of the legal obligations of the association, the board shall determine the pro rata share of each member of the association. The pro rata share shall be that portion of the remaining assets of the association based on the proportion which the months of active service performed in the associated fire department bears to the total number of months of active service which have been performed in the associated fire department by all of the persons who are then members of the relief association. At the time of dissolution of the corporation, each member shall be paid the member's pro rata share.

Subd. 12. Transfer of service credit to new district. Notwithstanding the requirements of subdivision 1 or any other law, a member of a fire department which is disbanded upon formation of a fire district to serve substantially the same geographic area, who serves as an active firefighter with the new district fire department, and is a member of the district firefighters' relief association shall be entitled to a nonforfeitable service pension from the new relief association upon completion of a combined total of 20 years active service in the disbanded and the new departments. The amount of the service pension shall be based upon years of service in the new department only, and shall be in an amount equal to the accrued liability for the appropriate years of service calculated in accordance with section 69.772, subdivision 2.

Subd. 13. Combined service pensions. If the articles of incorporation or bylaws of the associations so provide, a volunteer firefighter with total service credit of ten years or more as a member of two or more relief associations is entitled, when otherwise qualified, to a prorated service pension from each association in which the member has two years or more of service credit. The prorated service pension must be based on the service pension amount in effect for the relief association on the date volunteer firefighting services covered by that relief association terminate. To receive a service pension under this subdivision, the firefighter must become a member of the second or succeeding association and give notice of membership to the prior association within two years of termination of active service with the prior association. The notice must be attested to by the association secretary.

History: 1979 c 201 s 12; 1980 c 607 art 15 s 11; 1981 c 224 s 208,209,274; 1982 c 421 s 3; 1982 c 460 s 8; 1982 c 465 s 7,8; 1983 c 219 s 6; 1983 c 286 s 21; 1983 c 289 s 114 subd 1; 1984 c 547 s 15; 1984 c 655 art 1 s 92; 1985 c 261 s 8-10; 1Sp1985 c 7 s 35; 1987 c 372 art 1 s 22; 1988 c 668 s 9; 1988 c 709 art 7 s 2,3

424A.03 UNIFORMITY OF VOLUNTEER FIREFIGHTER SERVICE PENSION AND RETIREMENT BENEFITS.

Subdivision 1. Limitation on nonuniformity of pensions. Every partially salaried

and partially volunteer firefighters' relief association shall provide service pensions to volunteer firefighter members based on the years of service of the members not on the compensation paid to the members for firefighting services. Each relief association shall provide service pensions to salaried members as set forth in chapter 424 and applicable special laws.

Subd. 2. Penalties for violations. Any municipality which has a fire department to which a relief association which violates the provisions of subdivision 1 is directly associated or which contracts with an independent nonprofit firefighting corporation of which a relief association which violates the provisions of subdivision 1 is a subsidiary shall not be included in the apportionment of fire state aid by the commissioner of commerce to the applicable county auditor pursuant to section 69.021, subdivision 6, and shall not be included in the apportionment of fire state aid by the county auditor to the various municipalities pursuant to section 69.021, subdivision 7.

Subd. 3. Exception to application of limitation and penalty. The limitation provided for in subdivision 1 shall not apply to any relief association which prior to January 1, 1957, had established a definite service pension formula for members of the partially salaried and partially volunteer firefighters' relief association who are regularly employed firefighters.

History: 1979 c 201 s 13; 1983 c 219 s 7; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92

424A.04 VOLUNTEER RELIEF ASSOCIATIONS; BOARD OF TRUSTEES.

Subdivision 1. Membership. Every relief association directly associated with a municipal fire department shall be managed by a board of trustees consisting of nine members. Six trustees shall be elected from the membership of the relief association and three trustees shall be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated. The bylaws of a relief association may provide that one of the six trustees elected from the relief association may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The three ex officio trustees shall be the mayor, the clerk, clerk-treasurer or finance director, and the chief of the municipal fire department.

Every relief association that is a subsidiary of an independent nonprofit firefighting corporation shall be managed by a board of trustees consisting of ten members. Six trustees shall be elected from the membership of the relief association, three trustees shall be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated, and one trustee shall be the fire chief. The bylaws of a relief association may provide that one of the six trustees elected from the relief association may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The three ex officio trustees who are the elected officials shall be selected as follows:

(1) if only one municipality contracts with the independent nonprofit firefighting corporation, the ex officio trustees shall be three elected officials of the contracting municipality who are designated by the governing body of the municipality;

(2) if two municipalities contract with the independent nonprofit firefighting corporation, the ex officio trustees shall be two elected officials of the largest municipality in population and one elected official of the next largest municipality in population who are designated by the governing bodies of the applicable municipalities; or

(3) if three or more municipalities contract with the independent nonprofit corporation, the ex officio trustees shall be one elected official of each of the three largest municipalities in population who are designated by the governing bodies of the applicable municipalities. An ex officio trustee shall have all the rights and duties accorded to any other trustee except the right to be an officer of the board of trustees. A board shall have at least three officers, which shall be a president, a secretary and a treasurer.

These officers shall be elected from among the elected trustees by either the full board of trustees or by the membership, as specified in the bylaws, and in no event shall any trustee hold more than one officer position at any one time. The terms of the elected trustees and of the officers of the board shall be specified in the bylaws of the relief association, but shall not exceed three years. If the term of the elected trustees exceeds one year, the election of the various trustees elected from the membership shall initially and shall thereafter continue to be staggered on as equal a basis as is practicable.

Subd. 2. Fiduciary duty. It shall be the duty of the board of trustees to faithfully administer any provisions of statute or special law applicable to the relief association without prejudice and consistent with the expressed intent of the legislature. The members of the board shall act as trustees with a fiduciary obligation to the state of Minnesota which authorized the creation of the relief association, to the taxpayers who aid in its financing, and to the firefighters who are its beneficiaries.

History: 1979 c 201 s 14; 1980 c 607 art 15 s 12; 1981 c 224 s 210; 1983 c 219 s 8

424A.05 RELIEF ASSOCIATION SPECIAL FUND.

Subdivision 1. Establishment of special fund. Every relief association shall establish and maintain a special fund within the relief association.

Subd. 2. Special fund assets and revenues. The special fund shall be credited with all fire state aid moneys received pursuant to sections 69.011 to 69.051, all taxes levied by or other revenues received from the municipality pursuant to sections 69.771 to 69.776 or any applicable special law requiring municipal support for the relief association, any moneys or property donated, given, granted or devised by any person which is specified for use for the support of the special fund and any interest earned upon the assets of the special fund. The treasurer of the relief association shall be the custodian of the assets of the special fund and shall be the recipient on behalf of the special fund of all revenues payable to the special fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the special fund. These records and the bylaws of the relief association shall be public and shall be open for inspection by any member of the relief association, any officer or employee of the state or the municipality, or any member of the public, at reasonable times and places.

Subd. 3. Authorized disbursements from the special fund. Disbursements from the special fund shall not be made for any purpose other than one of the following:

(1) For the payment of service pensions to retired members of the relief association if authorized and paid pursuant to law and the bylaws governing the relief association;

(2) For the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief association;

(3) For the payment of survivor benefits to surviving spouses and surviving children of deceased members of the relief association if authorized by and paid pursuant to law and specified in amount in the bylaws governing the relief association;

(4) For the payment of any funeral benefits to the surviving spouse, or if no surviving spouse, the estate, of the deceased member of the relief association if authorized by law and specified in amount in the bylaws governing the relief association;

(5) For the payment of the fees, dues and assessments to the Minnesota state fire department association and to the state volunteer firefighters' benefit association in order to entitle relief association members to membership in and the benefits of these state associations; and

(6) For the payment of administrative expenses of the relief association as authorized pursuant to section 69.80.

Subd. 4. Investments of assets of the special fund. The assets of the special fund shall be invested only in securities authorized by section 69.775.

History: 1979 c 201 s 15; 1981 c 224 s 211; 1981 c 224 s 274; 1983 c 219 s 9

424A.06 RELIEF ASSOCIATION GENERAL FUND.

Subdivision 1. **Establishment of general fund.** Any volunteer firefighters' relief association may establish and maintain a general fund within the relief association.

Subd. 2. **General fund assets and revenues.** To the general fund, if established, shall be credited all moneys received from dues, fines, initiation fees, entertainment revenues and any moneys or property donated, given, granted or devised by any person, for unspecified uses. The treasurer of the relief association shall be the custodian of the assets of the general fund and shall be the recipient on behalf of the general fund of all revenues payable to the general fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the general fund. These records shall be open for inspection by any member of the relief association at reasonable times and places.

Subd. 3. **Authorized disbursements from the general fund.** Disbursements from the general fund may be made for any purpose authorized by either the articles of incorporation or bylaws of the relief association.

Subd. 4. **Investment of assets of the general fund.** The assets of the general fund may be invested in any securities authorized by the bylaws of the relief association.

History: 1979 c 201 s 16; 1980 c 509 s 163

424A.07 NONPROFIT FIREFIGHTING CORPORATIONS; ESTABLISHMENT OF RELIEF ASSOCIATIONS.

Prior to paying any service pensions or retirement benefits pursuant to section 424A.02 or becoming entitled to receive any amounts of fire state aid upon transmittal from a contracting municipality pursuant to section 69.031, subdivision 5, a nonprofit firefighting corporation shall establish a relief association governed by this chapter.

History: 1979 c 201 s 17; 1981 c 224 s 274

424A.08 MUNICIPALITY WITHOUT RELIEF ASSOCIATION; AUTHORIZED DISBURSEMENTS.

Any qualified municipality which is entitled to receive fire state aid but which has no volunteer firefighters' relief association directly associated with its fire department shall deposit the fire state aid in a special account in the municipal treasury. Disbursement from the special account shall not be made for any purpose except:

(1) Payment of the fees, dues and assessments to the Minnesota state fire department association and to the state volunteer firefighters' benefit association in order to entitle its firefighters to membership in and the benefits of these state associations;

(2) Payment of the cost of purchasing and maintaining needed equipment for the fire department; and

(3) Payment of the cost for construction, acquisition, repair and maintenance of buildings or other premises to house the fire department.

History: 1979 c 201 s 18; 1983 c 219 s 10

424A.09 APPLICATION TO CERTAIN RELIEF ASSOCIATIONS.

This chapter shall supersede any special law applicable to any municipal volunteer firefighters' relief association or independent nonprofit firefighting corporation specifically authorizing the relief association or nonprofit firefighting corporation to exceed the service pension limitations contained in Minnesota Statutes 1978, sections 69.06 and 69.691. Any relief association which amended its bylaws to provide for a full pro rata service pension amount at the specified retirement age with 15 years service credit or 75 percent of the pro rata service pension amount at the specified retirement age with ten years of service pursuant to Minnesota Statutes 1978, section 69.06 may continue to provide the specified service pension amounts at the applicable years of credited service to any member who has credit for at least ten or 15 years, whichever is the applicable minimum service period specified in the bylaws governing the relief association, on or before December 31, 1979 notwithstanding section 424A.02.

History: 1979 c 201 s 19; 1981 c 224 s 274

424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.

Subdivision 1. Definition. For purposes of this section, "qualified recipient" means an individual who receives an involuntary lump sum distribution of pension or retirement benefits from a firefighters' relief association for service performed as a volunteer firefighter.

Subd. 2. Payment of supplemental benefit. Upon the payment by a firefighters' relief association of an involuntary lump sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary, the relief association may pay the supplemental benefit out of its special fund. The amount of this benefit equals ten percent of the regular involuntary lump sum distribution that is paid on the basis of service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed \$1,000.

Subd. 3. State reimbursement. By February 15 of each year, the relief association shall apply to the commissioner of revenue for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year. By March 15 the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid to qualified recipients. The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The reimbursement payment must be deposited in the special fund of the relief association.

Subd. 4. In lieu of income tax exclusion. The supplemental benefit provided by this section is in lieu of the state income tax exclusion for involuntary lump sum distributions of retirement benefits paid to volunteer firefighters. If the law is modified to exclude or exempt volunteer firefighters' lump sum distributions from state income taxation, the supplemental benefits under this section may no longer be paid beginning with the first calendar year in which the exclusion or exemption is effective. This subdivision does not apply to exemption of all or part of a lump sum distribution under section 290.032 or 290.0802.

History: 1988 c 719 art 19 s 22