

CHAPTER 424A

VOLUNTEER FIREFIGHTER'S RETIREMENT

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| 424A.001 | Definitions. | 424A.04 | Volunteer relief associations; board of trustees. |
| 424A.01 | Membership in a volunteer firefighters' relief association. | 424A.10 | State supplemental benefit; volunteer firefighters. |
| 424A.02 | Volunteer firefighters; service pensions. | | |

424A.001 DEFINITIONS.

[For text of subds 1 to 6, see M.S.1988]

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. In addition, the trustees must act in accordance with chapter 356A.

Each member of the board is a fiduciary and shall undertake all fiduciary activities in accordance with the standard of care of section 11A.09, and in a manner consistent with chapter 356A. 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: 1989 c 319 art 8 s 26

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

[For text of subd 1, see M.S.1988]

Subd. 2. **Status of substitute volunteer firefighters.** No person who is serving as a substitute 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.

[For text of subd 3, see M.S.1988]

Subd. 3a. [Repealed, 1989 c 319 art 10 s 8]

[For text of subd 4, see M.S.1988]

History: 1989 c 319 art 10 s 2

424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.

Subdivision 1. **Authorization.** A 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 age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before

MINNESOTA STATUTES 1989 SUPPLEMENT

separation from active service; and (5) complies with any additional conditions as to age, service, and membership that 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 five 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 five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the payment of the service pension. During the period of inactive membership, the member is not entitled to receive disability benefit coverage, is not entitled to receive additional service credit towards computation of a service pension, and is considered to have the status of a person entitled to a deferred service pension under subdivision 7.

No municipality or nonprofit firefighting corporation may 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 that this chapter would allow rather than a specific dollar amount or level.

No relief association as defined in section 424A.001, subdivision 4, may pay a service pension or disability benefit to a 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 may 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 nonforfeitable percentage of pension amounts are as follows:

Completed Years of Service	Nonforfeitable Percentage of Pension Amount
5	40 percent
6	44 percent
7	48 percent
8	52 percent
9	56 percent
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

[For text of subds 3 to 6, see M.S.1988]

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:

MINNESOTA STATUTES 1989 SUPPLEMENT

(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 five years of active membership in the relief association; and

(3) separates from active service and membership before reaching age 50 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 age 50. The deferred service pension starts when the former member reaches age 50 or the minimum age specified in the bylaws governing the relief association if that age is greater than age 50 and when the former member makes a valid written application. A relief association that 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 must 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 must be compounded annually based on calendar year balances. The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, or relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

[For text of subds 8 to 12, see M.S.1988]

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, if every affected relief association does not require only a five-year service vesting requirement, or five years or more, if every affected relief association requires only a five-year service vesting requirement, 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 one year 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: 1989 c 319 art 10 s 3-6

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

[For text of subd 1, see M.S.1988]

Subd. 2. Fiduciary duty. The board of trustees shall undertake their activities consistent with chapter 356A.

History: 1989 c 319 art 8 s 27

424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.

Subdivision 1. Definition. For purposes of this section, "qualified recipient" means an individual who receives a 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 a 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 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.

MINNESOTA STATUTES 1989 SUPPLEMENT

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 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: 1989 c 319 art 10 s 7