

CHAPTER 424

FIREFIGHTERS' RELIEF AND RETIREMENT

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| 424.01 Firefighters' relief association in a city of second class. | 424.17 Relief, determination of entitlement; volunteers included. |
| 424.02 Organization; operation. | 424.18 May reduce amount of pension. |
| 424.03 Members, definitions; rights. | 424.19 Relief. |
| 424.04 Members. | 424.20 Members to receive disability benefits. |
| 424.05 May exclude certain persons. | 424.21 Membership. |
| 424.06 Officers; trustees. | 424.22 Retirement. |
| 424.08 City clerk to file report of existence of association. | 424.23 Military service included in service. |
| 424.14 Relief associations to have custody of funds. | 424.24 Pensions to survivors. |
| 424.15 Money to be kept in two funds. | 424.25 Board of examiners. |
| 424.16 Special fund; disbursement; segregation in case of volunteer members. | 424.27 Payments exempt from legal process. |
| 424.165 Special fund, maintenance. | 424.28 Workers' compensation act not affected. |
| | 424.29 Pensions to be uniform. |

NOTE: For definitions, see chapter 69.

424.01 FIREFIGHTERS' RELIEF ASSOCIATION IN A CITY OF SECOND CLASS.

If it employs for compensation one or more regular full-time paid firefighters who are eligible for membership in the relief association pursuant to law, the fire department of a city of the second class in this state which was so classified on or before August 1, 1975 shall maintain a firefighters' relief association which shall be incorporated under the laws of the state. All second class city firefighters' relief associations shall have perpetual corporate existence.

History: 1941 c 267 s 1; 1977 c 429 s 63; 1982 c 465 s 2

424.02 ORGANIZATION; OPERATION.

Each relief association shall be organized, operated, and maintained in accordance with its own articles of incorporation and bylaws, by firefighters, 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 corporated powers which may be necessary or useful; subject to the applicable provisions of this chapter and chapter 424A, and other laws of this state pertaining to corporations, not inconsistent herewith.

History: 1941 c 267 s 2; 1977 c 429 s 63; 1982 c 465 s 3

424.03 MEMBERS, DEFINITIONS; RIGHTS.

A firefighter under sections 424.01 to 424.29 is one who is regularly entered on the payroll 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 firefighting; and includes all members of the electrical and mechanical divisions of the fire departments who are subject to like hazards; and shall include all volunteer firefighters of the city not on the payroll who regularly comply with such rules as may be prescribed by the governing body of the city for service by volunteer firefighters with the fire department of the city, and who by reason of their status as such volunteer firefighters are engaged in the hazards of firefighting. Substitutes and persons employed irregularly from time to time shall not be included.

Any person who is employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act shall not be included as a member of the relief association from and after March 30, 1978 unless the person has as of the later of March 30, 1978 or

the date of employment sufficient service credit in the relief association to meet the minimum vesting requirements for a deferred service pension, or the city agrees in writing to make the total required employer contributions on account of that individual from revenue sources other than funds provided under the federal Comprehensive Training and Employment Act, or the person agrees in writing to make the required employer contributions in addition to the member contribution.

All persons who are members of the relief associations on April 16, 1941, or who were members of a firefighters' relief association in a municipality which shall have become a city of second class by reason of adoption of a home rule charter or increase in its population, whether their status is embraced within the definition of a firefighter 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 firefighters herein provided shall have the right to retain membership on promotion or appointment to other positions to which such firefighters 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; or as of the date that the municipality may become a city of the second class by reason of the adoption of a home rule charter, or increase in its population. Payment of such pensions and benefits shall be continued by the respective associations, subject only to the provisions of section 424.18.

History: 1941 c 267 s 3; 1955 c 289 s 1; 1977 c 429 s 63; 1978 c 720 s 17; 1986 c 444

424.04 MEMBERS.

Subdivision 1. Paid firefighters. Every paid firefighter, as defined in section 424.03, shall be eligible to apply for membership in the relief association in the city in which the person is employed within the time and in the manner hereinafter set forth. Any firefighter desiring to become a member shall, not later than 90 days from the time when the person is regularly entered on the payrolls 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 bylaws 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. An application shall be acted upon by the association within six months from the date applicant was entered on the payroll of the fire department.

Subd. 2. Volunteer firefighters. Every volunteer firefighter shall be eligible to apply for membership in the relief association and shall make written application for membership in the relief association on forms supplied by the association not later than 90 days from the date on which the person commenced service as a volunteer firefighter. No application from a person who is ineligible for membership pursuant to section 424A.01, subdivision 1 or 2 or who is excluded as constituting an unwarranted health risk pursuant to section 424A.01, subdivision 4, shall be approved by the association. The application shall be acted upon by the association within six months from the date on which the person commenced service as a volunteer firefighter.

History: 1941 c 267 s 4; 1977 c 429 s 63; 1982 c 465 s 4; 1987 c 372 art 2 s 1

424.05 MAY EXCLUDE CERTAIN PERSONS.

Each firefighters' 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 bylaws of the association.

History: 1941 c 267 s 5; 1977 c 429 s 63

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 bylaws of any such associations. The affairs of each association must be managed in accordance with chapter 356A 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.

History: 1941 c 267 s 6; 1989 c 319 art 8 s 25

424.07 [Repealed, Ex1971 c 6 s 11]**424.08 CITY CLERK TO FILE REPORT OF EXISTENCE OF ASSOCIATION.**

The clerk of every city of the second class having a firefighters' relief association shall, on or before March 1 each year, make and file with the commissioner of commerce of this state and the county auditor a certificate stating the existence of the firefighters' relief association and any other facts the commissioner or auditor may require.

History: 1941 c 267 s 8; 1969 c 1001 s 10; 1977 c 429 s 63; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 444

424.09 [Repealed, Ex1971 c 6 s 11]**424.10 [Repealed, 1969 c 1001 s 11]****424.11 [Repealed, 1969 c 1001 s 11]****424.12 [Repealed, 1989 c 277 art 4 s 80]****424.13 [Repealed, 1989 c 277 art 4 s 80]****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:

(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.

History: 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.

History: 1941 c 267 s 15

424.16 SPECIAL FUND; DISBURSEMENT; SEGREGATION IN CASE OF VOLUNTEER MEMBERS.

The amounts so paid to relief association by the state and each city under the provi-

sions 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 surviving spouses and orphans; and

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

(3) In any second class city firefighters relief association in which the membership of the firefighters' relief association includes volunteer firefighters, the special fund shall be segregated into two accounts, one of which shall be for the benefit of members who are volunteer firefighters, and the other for the benefit of members who are paid firefighters. All moneys received by the association which are derived from payroll deductions from paid firefighters' salaries under section 69.77, subdivision 2a, shall be paid into the account of the special fund for the benefit of paid firefighters only. Funds received from other sources shall be allocated between the account for the benefit of paid firefighters and the account for the benefit of volunteer firefighters in such proportions as shall be designated by the governing body of the city from time to time. The paid firefighters account of the special fund shall be governed by the applicable provisions of this chapter and the volunteer firefighters account of the special fund shall be governed by the applicable provisions of chapter 424A. In the event the governing body of the city shall abolish the volunteer firefighters account of its fire department, any surplus remaining in the account of the fund for the benefit of volunteer firefighters after discharging all obligations to those who are volunteer members at the time of the abolition shall be paid into the account of the fund for the benefit of paid firefighters.

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

History: 1941 c 267 s 16; 1955 c 289 s 2; 1957 c 179 s 1; 1977 c 429 s 63; 1978 c 562 s 27; 1978 c 690 s 6; 1982 c 465 s 5; 1991 c 199 art 2 s 1

424.165 SPECIAL FUND, MAINTENANCE.

Subdivision 1. Surcharge. When the balance in the special fund of any firefighter'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 state auditor, such board of trustees may thereupon file its duly verified petition for relief, accompanied by such certificate, with the commissioner of revenue. The commissioner of revenue shall thereupon order and direct a surcharge to be collected of two percent of the fire, lightning 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 revenue and the commissioner of revenue shall forthwith issue an 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 installments on June 30 and December 31 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 percent shall accrue thereon and thereafter such sum and penalty shall draw interest at the rate of one percent per month until paid.

Subd. 2. Issuance of warrant. The commissioner of finance on July 31, 1938, and semiannually thereafter, shall issue and deliver to the treasurer of such relief association in such city a 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.

There is hereby appropriated to such firefighter's relief association, from such fund or account in the state treasury to which the money was credited, such sums as may, from time to time, be necessary to pay these warrants.

Subd. 3. Funds to be kept in special fund. The treasurer of such relief association shall place the money received 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 firefighter's relief associations in any city of the second class.

History: (1648-1, 1648-2, 1648-3, 1648-4) 1937 c 109 s 1-4; 1955 c 199 s 1; 1959 c 158 s 30; 1973 c 492 s 7,14; 1977 c 429 s 63; 1984 c 592 s 89; 1986 c 444

424.17 RELIEF, DETERMINATION OF ENTITLEMENT; VOLUNTEERS INCLUDED.

Each relief association shall, in its bylaws, 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 surviving spouses 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. The bylaws of the association shall provide for payment of a service pension to volunteer firefighters who are members of the association in accordance with the applicable provisions of chapter 424A. If the services of all volunteer firefighters are discontinued and the volunteer firefighters account of the fire department is abolished by the municipality, the volunteer firefighters who are members of the association at the time of the discontinuance and abolishment shall be paid a service pension in an amount equal to the service pension amount in effect immediately prior to the discontinuance and abolishment. In determining the period of service of any individual member of the association for the purpose of computation of service requirements in connection with payment of any pensions or other benefits specified by the bylaws of the relief association, or any provision of sections 424.03 to 424.29, service of a volunteer or paid firefighter of the fire department of the municipality in which the relief association is situated, and membership in a firefighters' relief association in the municipality prior to the municipality becoming a city of the second class, shall be taken into account on the same basis as if the municipality had been a city of the second class during all of the time the service was rendered.

History: 1941 c 267 s 17; 1955 c 289 s 3; 1957 c 179 s 2; 1977 c 429 s 63; 1978 c 562 s 28; 1982 c 465 s 6

424.18 MAY REDUCE AMOUNT OF PENSION.

The firefighters' 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.

History: 1941 c 267 s 18; 1977 c 429 s 63

424.19 RELIEF.

A member of such association who, by reason of sickness or accident, becomes disabled from performing assigned duties on the fire department, shall be entitled to the relief as the bylaws 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.

History: 1941 c 267 s 19; 1986 c 444

424.20 MEMBERS TO RECEIVE DISABILITY BENEFITS.

A member of any such relief association entitled to disability benefits shall receive the same from the association for such periods of time, at such times, and in such amounts not to exceed \$75 per month as the bylaws of the association provide.

History: 1941 c 267 s 20; 1986 c 444

424.21 MEMBERSHIP.

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 arriving at the age of 50 years or more, and has retired from the payroll of the fire department, be entitled to a pension of not less than \$50 nor more than \$75 per month provided that the bylaws of a relief association in a city of second class situated in a county in which there is also a city of first class may provide for a pension of not more than a sum equal to one-half of the salary as payable from time to time during the period of the pension payment to firefighters of the highest grade (not including officers of the department) in the employ of the municipality, such pension to be payable for the pensioner's natural life in conformity with the bylaws of each association. All leaves of absence of more than 90 days, except such as are granted to a member because of the member's 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 the member to accept an appointive position in the fire department. No member shall be entitled to draw both a disability and a service pension. The bylaws 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; provided that the bylaws of a relief association in a city of second class situated in a county in which there is also a city of first class may provide for a pension of not more than a sum equal to one-half of the monthly salary of a firefighter of the highest grade (not including officers of the department) in the employ of the municipality from time to time during the period of the pension payment.

History: 1941 c 267 s 21; 1957 c 179 s 3; 1977 c 429 s 63; 1986 c 444

424.22 RETIREMENT.

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 the member's right to a service pension. The member shall, upon application, be placed on the deferred pension roll of the association, and, after the member has reached the age of 50 years, the association shall, upon application therefor, pay the member's 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 the association for any cause that may have arisen from, or that may be attributable to, service on the fire department.

History: 1941 c 267 s 22; 1986 c 444

424.23 MILITARY SERVICE INCLUDED IN SERVICE.

Any applicant for a service pension who, subsequent to 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 honorable discharge from such service, and resumed active duty in the fire department, the period of 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 active duty in the fire department.

History: 1941 c 267 s 23; 1986 c 444

424.24 PENSIONS TO SURVIVORS.

Subdivision 1. When a service pensioner, disability pensioner, or deferred pensioner, or an active member of such relief association dies, leaving a surviving spouse, one or more surviving child, or both, such surviving spouse and the child or children shall be entitled to a pension or pensions as follows:

(a) To the surviving spouse a pension of not less than \$25, and not to exceed \$50 per month; provided that the bylaws of a relief association in a city of second class situated in a county in which there is also a city of first class may provide for a pension of not more than a sum equal to 40 percent of the monthly salary of a firefighter of the highest grade (not including officers of the department) in the employ of the municipality from time to time during the period of the pension payment, as the bylaws of the association provide for the natural life of the surviving spouse; provided, that if the surviving spouse shall remarry, such pension shall cease and terminate as of the date of remarriage.

(b) To such child or children, if the surviving spouse of the member is living, a pension of not to exceed \$15 per month; provided that the bylaws of a relief association in a city of second class situated in a county in which there is also a city of first class may provide for a pension of not more than a sum equal to five percent of the monthly salary of a firefighter of the highest grade (not including officers of the department) in the employ of the municipality from time to time during the period of the pension payment, 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 bylaws of each association; provided, the total pension hereunder for the surviving spouse and children of the deceased member shall not exceed the sum of \$75 per month; provided that the bylaws of a relief association in a city of second class situated in a county in which there is also a city of first class may provide for a pension of not more than a sum equal to 50 percent of the monthly salary of a firefighter of the highest grade (not including officers of the department) in the employ of the municipality from time to time during the period of the pension payment.

(c) A child or children of a deceased member receiving a pension or pensions hereunder shall, after the death of the surviving spouse of the member, 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 bylaws 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; provided that the bylaws of a relief association in a city of second class situated in a county in which there is also a city of first class may provide for a pension of not more than a sum equal to 50 percent of the monthly salary of a firefighter of the highest grade (not including officers of the department) in the employ of the municipality from time to time during the period the pension payment is payable.

Subd. 2. (a) "Surviving spouse" means a person who became the member's legally married spouse during or prior to the time the member was on the payroll of any such fire department as a firefighter, and remained such continuously after their marriage until the member's death, without having been granted a marriage dissolution or legal separation, and who, in case the deceased member was a service or deferred pensioner, was legally married to the member for at least one year prior to the member's retirement from the fire department; and who, in any case, was residing with the member at the time of the member's death. No temporary absence for purposes of business, health or pleasure shall constitute a change of residence for purposes of this clause.

(b) "Surviving child" means any child of the member living while the deceased member was on the payroll of the fire department, or who were born within nine

months after the deceased member was withdrawn from the payroll of the fire department.

History: 1941 c 267 s 24; 1957 c 179 s 4; 1977 c 429 s 63; 1978 c 562 s 29; 1984 c 574 s 15

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.

History: 1941 c 267 s 25

424.26 [Repealed, 1983 c 219 s 11]

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, except as provided in section 518.58, 518.581, or 518.611. 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. Any attempt to transfer any such right or claim or any part thereof shall be void.

History: 1941 c 267 s 27; 1984 c 547 s 14; 1987 c 157 s 13

424.28 WORKERS' 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 workers' compensation act.

History: 1941 c 267 s 28; 1975 c 359 s 23

424.29 PENSIONS TO BE UNIFORM.

All pensions paid to firefighters or their surviving spouses pursuant to the provisions of sections 424.01 to 424.29 shall be uniform except as may be specifically provided for therein.

History: 1941 c 267 s 31; 1977 c 429 s 63; 1978 c 562 s 30

424.30 [Repealed, 1979 c 201 s 44]

424.31 [Repealed, 1979 c 201 s 44]