

## CHAPTER 423C

MINNEAPOLIS FIREFIGHTERS RELIEF  
ASSOCIATION

423C.01	MINNEAPOLIS FIREFIGHTERS RELIEF ASSOCIATION; DEFINITIONS.	423C.09	PAYMENTS EXEMPT FROM PROCESS.
423C.02	MINNEAPOLIS FIREFIGHTERS RELIEF ASSOCIATION.	423C.10	LAW GOVERNING PENSIONS AND BENEFITS.
423C.03	BOARD MEMBERSHIP; ELECTIONS; DUTIES; COMPENSATION; BOND; MEETINGS; POWERS.	423C.11	WORKERS' COMPENSATION ACT NOT AFFECTED.
423C.04	ASSOCIATION FUNDS AND ACCOUNTS.	423C.12	RIGHT TO REDUCE PENSIONS.
423C.05	DEFINED BENEFITS.	423C.13	FINANCE DIRECTOR TO FILE REPORT WITH THE REVENUE COMMISSIONER.
423C.06	INVESTMENT-RELATED POSTRETIREMENT ADJUSTMENTS.	423C.14	STATE AUDITOR TO EXAMINE BOOKS.
423C.07	ACTUARIAL VALUATION DATE.	423C.15	ACTUARIAL PROVISIONS.
423C.08	MEMBER CONTRIBUTION REFUND TO BENEFICIARY UPON DEATH.	423C.16	RECOMPUTATION OF DISABLED BENEFIT PROHIBITED.

**423C.01 MINNEAPOLIS FIREFIGHTERS RELIEF ASSOCIATION; DEFINITIONS.**

Subdivision 1. **Terms.** For purposes of this chapter, unless the context clearly indicates otherwise, the terms defined in this section have the meanings given them.

Subd. 2. **Active member.** "Active member" means a person who was hired and duly appointed by the city of Minneapolis before June 15, 1980, as a firefighter who is regularly entered on the fire department payroll and who serves on active duty.

Subd. 3. **Active member percentage.** "Active member percentage" means the total number of units accrued by active members divided by the sum of the total number of units to which eligible members are entitled and active members have accrued.

Subd. 4. **Actuarial equivalent or actuarially equivalent.** "Actuarial equivalent" or "actuarially equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit determined as of a given date at a specified age with each actuarial present value based on the appropriate mortality table adopted by the board based on the experience of the special fund and approved by the actuary retained under section 356.214 and using the applicable preretirement or postretirement interest rate assumptions specified in section 356.216.

Subd. 5. **Age.** "Age" means a person's age at the person's latest birthday.

Subd. 6. **Annual postretirement adjustment.** "Annual postretirement adjustment" means the payment of a lump-sum, postretirement benefit pursuant to section 423C.06, subdivision 1, to an eligible member on June 1 following the determination date in any year.

Subd. 7. **Association.** "Association" means the Minneapolis Firefighters Relief Association.

Subd. 8. **Board.** "Board" means the board established in section 423C.03 to govern the association.

Subd. 9. **City.** "City" means the city of Minneapolis.

Subd. 10. **Deferred member.** "Deferred member" means a person who served on active duty and was regularly entered on the fire department payroll and separated from active service prior to attaining 50 years of age and is entitled to receive a service pension upon reaching age 50 under the law existing at the time the member separated from active service for at least five years.

Subd. 11. **Dependent.** "Dependent" means:

(1) a biological or adopted child of a deceased, active, or retired member who is unmarried and under the age of 18;

# MINNESOTA STATUTES 2006

(2) a biological or adopted child of a deceased, active, or retired member who is between the ages of 18 and 22 and is enrolled full time at an accredited educational institution approved by the board; or

(3) a biological child of an active or retired member conceived during the active or retired member's lifetime and born after the active or retired member's death.

Subd. 12. **Determination date.** "Determination date" means December 31 of each year.

Subd. 13. **Disability.** "Disability" has the meaning specified in the bylaws of the relief association on April 1, 2001.

Subd. 14. **Discharge.** "Discharge" means a complete separation from and termination of active service as a member of the fire department.

Subd. 15. **Eligible member.** "Eligible member" means:

(1) for purposes of section 423C.06, subdivision 1, a person, including a service pensioner, a disability pensioner, a survivor, or dependent of a deceased active member, service pensioner, or disability pensioner, who received a pension or benefit from the relief association during the 12 months before the determination date. A person who received a pension or benefit for the entire 12 months before the determination date is eligible for a full annual postretirement payment. A person who received a pension or benefit for less than 12 months before the determination date is eligible for a prorated annual postretirement payment; and

(2) for purposes of section 423C.06, subdivision 4, a person who receives a service, survivor, or disability pension payable from the special fund of the association.

Subd. 16. **Enrolled full time.** "Enrolled full time" means the situation of an individual who is in full-time attendance as a student at an educational institution, as determined by the board of trustees of the relief association in light of the standards and practices of the school involved. A person who is paid by the person's employer while attending school at the request of that employer may not be considered to be a full-time student. A person may be considered a full-time student during a period of up to four months of nonattendance during any 12-month period if the person shows to the satisfaction of the board of trustees that the person intends to continue in full-time school attendance immediately upon the conclusion of the nonattendance period.

Subd. 17. **Excess investment income.** "Excess investment income" means the amount, if any, by which the average time-weighted total rate of return earned by the special fund in the most recent prior five fiscal years has exceeded the actual average percentage increase in the current monthly salary of a first grade firefighter in the most recent prior five fiscal years plus two percent. The excess investment income must be expressed as a dollar amount and may not exceed one percent of the total assets of the special fund, except when the actuarial value of assets of the special fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, in which case the amount must not exceed 1.5 percent of the assets of the special fund.

Subd. 18. **Fire department.** "Fire department" means the Minneapolis Fire Department.

Subd. 19. **Fund.** "Fund" means the special fund of the relief association.

Subd. 20. **Net excess asset amount payment.** "Net excess asset amount payment" means the payment of an additional postretirement payment under section 423C.06, subdivision 4, to an eligible member on June 1 following the determination date in the given year.

Subd. 21. **Net total excess asset amount.** "Net total excess asset amount" means the total excess asset amount stated in dollars and multiplied by one minus the active member percentage.

Subd. 22. **Period of service.** "Period of service" means:

(1) any service rendered by a firefighter for any calendar month when the member receives salary from which deductions are made, deposited, and credited to the special fund. Leaves of absence of more than 90 days, except those granted because of disability due to

sickness or accident or to enable a member to accept an appointive position in the fire department, shall be excluded in computing a member's period of service;

(2) any period in which the member, after entering the fire department, leaves to enter the military forces of the United States in a time of war or national emergency and subsequently receives an honorable discharge from the military or leaves to render fire prevention services to the United States government in a time of war or national emergency, provided the member who serves either applies for reinstatement in or resumes active duty in the fire department within six months. During any period of military or fire prevention service, the individual shall not be considered an active member. Any period of service a member qualifies for under this clause is limited as follows:

(i) credit shall be granted for service rendered subsequent to July 1, 1961, but the credit shall not exceed six calendar years;

(ii) no credit shall be granted for service rendered subsequent to July 1, 1961, if the period of service rendered prior to July 1, 1961, equals or exceeds six calendar years; and

(iii) if the period of service prior to July 1, 1961, is less than six calendar years, credit for service subsequent to July 1, 1961, shall be added to the prior service, but in no case shall total service credit exceed six calendar years.

Subd. 23. **Retired member.** "Retired member" means a former active member who has terminated active service with the fire department and is entitled to receive a pension or benefit under this chapter or any predecessor law.

Subd. 24. **Relief association.** "Relief association" means the Minneapolis Firefighters Relief Association.

Subd. 25. **Surviving spouse member.** "Surviving spouse member" means a person who was:

(1) legally married to, and residing with, an active, deferred, or retired member both during the time the member was regularly entered on the payroll and serving on active duty in the fire department and at the time of the member's death; and

(2) in the event the person was married to a retired or deferred member, married to that retired or deferred member for at least one year prior to the member's discharge from the fire department.

Subd. 26. **Time-weighted total rate of return.** "Time-weighted total rate of return" means the percentage amount determined by using the formula or formulas established by the state board of investment under section 11A.04, clause (11), and in effect on January 1, 1987.

Subd. 27. **Total excess asset amount.** (a) "Total excess asset amount" means the difference, if positive, expressed in dollars, between the special fund's market value of assets after any deductions required by section 423C.06, subdivision 3, and 110 percent of the actuarial accrued liabilities based on the actuarial valuation indicated in paragraph (b).

(b) The total excess asset amount in paragraph (a) exists if the actuarial liability funding ratio, according to the most recent annual actuarial valuation of the special fund prepared in accordance with sections 69.77, 356.215, and 356.216, with adjustments required by section 423C.06, subdivision 3, equals or exceeds 110 percent.

Subd. 28. **Unit.** "Unit" means 1/80 of the maximum monthly salary of a first grade firefighter on the first day of the month in which the pension benefits provided by this chapter are paid.

Subd. 29. **Covered salary.** "Salary" is subject to the limitations of section 356.611.

**History:** *1Sp2001 c 10 art 15 s 1; 2002 c 231 s 1,2; 1Sp2005 c 8 art 1 s 29; 2006 c 271 art 3 s 47*

## 423C.02 MINNEAPOLIS FIREFIGHTERS RELIEF ASSOCIATION.

Subdivision 1. **Creation.** The active and retired members of the fire department and their surviving spouses shall maintain the association. The association shall be duly incorpo-

rated under chapter 317A. The corporation shall have perpetual corporate existence. The association shall create, maintain, and administer those funds and accounts as set forth in section 423C.04 for the benefit of its members, surviving spouses, and dependents. The sources of revenue for each fund and account are governed by section 423C.04. The authorized disbursements from each fund and account are governed by sections 423C.04, 423C.05, and 423C.06.

Subd. 2. **Membership.** Active members, deferred members, retired members, and surviving spouse members as defined in section 423C.01 are members of the association.

Subd. 3. **Management of association.** The board created in section 423C.03 shall manage, control, and operate the association, including the funds and accounts set forth in section 423C.04, according to this chapter, other applicable law, and the association's articles of incorporation and its bylaws. Notwithstanding section 423A.01, subdivision 2, or any other law to the contrary, the board shall continue to govern the association until there are fewer than 100 members receiving benefits under this chapter. Thereafter, the special fund shall become a trust fund according to section 423A.01, subdivision 2.

Subd. 4. **Disposition of assets upon conclusion of benefit payments.** Upon the death of the last benefit recipient and the certification by the chief administrative officer of the city to the state auditor of the absence of any remaining person entitled to a benefit under this chapter, all assets of the association or trust fund, whichever applies, shall revert to the city. The city shall only use these assets for firefighting expenditure purposes.

**History:** *1Sp2001 c 10 art 15 s 2*

### **423C.03 BOARD MEMBERSHIP; ELECTIONS; DUTIES; COMPENSATION; BOND; MEETINGS; POWERS.**

Subdivision 1. **Board composition and elections.** The board shall consist of two persons appointed by the city and ten other members selected by the members. Elections for active and retired positions on the board shall be conducted pursuant to the association's bylaws.

Subd. 2. **Board officers.** The officers of the association shall consist of a president, one or more vice-presidents, an executive secretary, a treasurer, an assistant executive secretary, and an assistant treasurer. Only elected members of the board are eligible to be officers. Officers shall have those duties and responsibilities as set forth in this chapter, other applicable law, and the association's bylaws. Officers shall be compensated as provided in subdivision 3. All officers shall be elected in even years at the association's annual meeting. Officers shall hold their office for a term of two years unless they are removed from the board before their two-year term expires.

Subd. 3. **Compensation of officers and board members.** (a) Notwithstanding any other law to the contrary, the association may provide for salaries to its officers and board members as specified in this subdivision.

(b) If the executive secretary is not an active member, the executive secretary may receive a salary to be set by the board, subject to the limitations stated in paragraph (d). If the executive secretary is an active member, the executive secretary may receive a salary not exceeding 50 percent of the maximum salary of a first grade firefighter.

(c) The president may receive a salary not exceeding ten percent of the maximum salary of a first grade firefighter, and all other elected members of the board, other than the executive secretary, may receive a salary not exceeding 2.5 percent of the maximum salary of a first grade firefighter.

(d) If the executive secretary is not an active member, the executive secretary's salary may not exceed the highest salary currently received by the executive director of the Minnesota State Retirement System, the Public Employees Retirement Association, or the Teachers Retirement Association.

Subd. 4. **Bond for executive secretary and treasurer.** (a) The executive secretary and the treasurer must furnish to the relief association a corporate bond for the faithful perfor-

mance of the duties of that office in an amount as the board of trustees from time to time may determine, subject to the minimum amount specified in section 69.051, subdivision 2.

(b) The relief association must pay the premiums on these bonds from the special fund of the relief association.

**Subd. 5. Meetings.** Each December, the board shall hold an annual meeting. All other meetings of the board shall be held as provided in the association's articles or bylaws. Board members may participate in a board meeting by any means of communication through which the trustee, other board members participating, and all other board members physically present at the meeting may simultaneously hear each other during the meeting. Participating in a meeting by these means is the same thing as being physically present at the meeting.

**Subd. 6. Additional board powers.** (a) In addition to the powers granted the board by this chapter, chapter 317A, other applicable state and federal law, and its articles and bylaws, the board shall authorize and create a board of examiners.

(b) The board of examiners shall investigate and report on all applications for disability pensions and make recommendations as to the amount to be paid to each applicant; investigate and report on all disability pensioners and make recommendations as to the 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 at least three members of the board of the relief association.

**History:** *1Sp2001 c 10 art 15 s 3; 2002 c 231 s 3,4; 1Sp2003 c 12 art 11 s 1; 2004 c 267 art 13 s 1*

#### 423C.04 ASSOCIATION FUNDS AND ACCOUNTS.

**Subdivision 1. Duties.** The association shall create, maintain, and administer the funds and accounts in this section. The association shall have full and permanent charge and the responsibility for the proper management and control of all funds that may come into its possession under this section. The sources of revenue and authorized disbursements of each fund and account are governed by this section.

**Subd. 2. Special fund; purpose and sources of revenue.** (a) The special fund may only be used to pay for defined and contingent benefits as set forth in sections 423C.05 and 423C.06; compensation for officers and board members as set forth in section 423C.03, subdivision 3; expenses of officers and employees of the association in connection with the protection of the special fund; and expenses of operating, administering, and maintaining the association as authorized by this chapter, section 69.80, or other applicable law.

(b) The special fund is derived from the following sources:

(1) receipts from the state, including, but not limited to, any fire state aid, any fire insurance premium surcharge amount, or any additional amortization state aid;

(2) all money derived from taxation by the city under section 69.77 for the support of the association and for the payment of benefits set forth in sections 423C.05 and 423C.06;

(3) an amount equal to the minimum percentage specified in section 69.77, subdivision 3, of the salary of a first grade firefighter deducted from the monthly salary of each active member; and

(4) the proceeds of the investment of special fund assets.

**Subd. 3. General fund.** The general fund is separate and distinct from the special fund. The general fund may, consistent with applicable law, be expended for those purposes deemed appropriate by the relief association. The city finance officer shall deduct from each active member's biweekly payroll check a sum equal to one-half of one percent of the maximum biweekly salary of a first grade firefighter. This sum shall be forwarded to the association's treasurer and deposited in the general fund. The general fund shall also consist of receipts from private sources, such as gifts, charges, fund-raising projects, and dues paid by members; investment of, earnings on, and interest of the general fund; and all other sources. Money received from other sources may also be deposited in the general fund.

# MINNESOTA STATUTES 2006

Subd. 4. **Health insurance accounts.** Notwithstanding any law to the contrary, special fund contributions of active members of the association with at least 25 years of service made after the 25th year of service must be deposited in a separate account and used to pay health care costs of the individual member upon retirement. The board shall adopt rules regarding the frequency and amounts of distributions from these accounts. A member with an account established pursuant to this section is entitled, upon retirement or disability, to receive periodic distributions from the account, in the amount and with the frequency specified by the member consistent with the board's rules.

**History:** *1Sp2001 c 10 art 15 s 4; 2002 c 231 s 5,6; 2002 c 392 art 1 s 8*

## 423C.05 DEFINED BENEFITS.

Subdivision 1. **Duties.** The association is authorized to and shall pay the benefits in this section to its members in accordance with this section. All benefits authorized in this section shall be paid from the association's special fund.

Subd. 2. **Service pension.** (a) A member who has performed duty for the fire department for five years or more, upon written application after retiring from duty and reaching at least age 50, is entitled to be paid monthly for life a service pension under paragraph (b).

(b) The amount of the service pension is as follows:

Length of allowable service credit	Number of units
5 years	8.0 units
6 years	9.6 units
7 years	11.2 units
8 years	12.8 units
9 years	14.4 units
10 years	16.0 units
11 years	17.6 units
12 years	19.2 units
13 years	20.8 units
14 years	22.4 units
15 years	24.0 units
16 years	25.6 units
17 years	27.2 units
18 years	28.8 units
19 years	30.4 units
20 years	34.0 units
21 years	35.6 units
22 years	37.2 units
23 years	38.8 units
24 years	40.4 units
25 years or more	42.0 units

(c) A member entitled to a benefit under this subdivision may elect to have it paid as an optional retirement annuity pursuant to the conditions set forth in subdivision 8. A member receiving a benefit pursuant to subdivision 5 or 6 shall not simultaneously be entitled to a benefit under this subdivision.

Subd. 3. **Calculation of service pension for deferred members.** An association member who has performed services for the fire department for five years or more but has not reached the age of 50 years shall be eligible to retire from the department, without forfeiting

service pension rights. The member shall, upon application, be placed on the association's deferred pension roll. The association shall, upon board approval, pay the pension of any member on the deferred pension roll who has attained 50 years of age from the date the application is approved. The pension shall be paid in accordance with the schedule in subdivision 2. Any person making this application waives all other rights, claims, or demands against the association for any cause that may have arisen from or that may be attributable to the person's service in the fire department. A member entitled to a benefit under this subdivision may elect to have the benefit paid as an optional retirement annuity pursuant to the conditions set forth in subdivision 7.

**Subd. 4. Temporary disability pension.** (a) An active member who, by sickness or accident, becomes temporarily disabled from performing firefighter duties for the fire department is entitled to a temporary disability pension.

(b) No allowance for disability may be made unless notice of the disability and an application for benefits is made by or on behalf of the disabled member within 90 days after the beginning of the disability. This application must include a certificate from a qualified expert setting forth the cause, nature, and extent of the disability. This certificate must also conclude that the disability was incurred or sustained while the member was in the service of the fire department.

(c) The board shall utilize the board of examiners established under section 423C.03, subdivision 6, to investigate and report on an application for benefits under this section and to make recommendations as to eligibility and the benefit amount to be paid.

(d) A member entitled to a disability pension must receive benefits in the amount and manner determined by the board.

**Subd. 5. Service-related permanent disability pension.** An active member who becomes permanently disabled as the result of a service-related disease or injury is, upon application and approval of the board, entitled to a pension of 41 units or in the amount determined under subdivision 8. The application for service-related permanent disability must include a certificate from a qualified expert setting forth the permanent nature of the disability or disease and that it was service related.

**Subd. 6. Non-service-related permanent disability pension.** An active member who, by reason of sickness or accident, becomes permanently disabled and unable to perform firefighter duties for the fire department due to non-service-related disease or injury is entitled to a permanent disability pension. No allowance for disability may be made unless notice of the disability and an application for benefits is made by or on behalf of the disabled member within 90 days after the beginning of the disability. This application must include a certificate from a qualified medical professional setting forth the cause, nature, and extent of the disability. A member who is entitled to a disability pension under this subdivision must receive benefits in the amount and manner determined by the board, not to exceed 41 units.

**Subd. 6a. Qualified expert.** A qualified expert includes a licensed physician or chiropractor, or in the case of mental impairment, includes a licensed psychologist.

**Subd. 7. Surviving spouse and dependent pensions.** Notwithstanding any other law to the contrary, when a service pensioner, disability pensioner, deferred pensioner, or active member of the association dies, recipient beneficiaries are entitled to a pension or pensions, as follows:

(1) to a surviving spouse, a pension of 22 units per month;

(2) a surviving spouse of a deceased service pensioner, disability pensioner, or deferred pensioner who is otherwise not qualified for a pension may receive a benefit if the surviving spouse was legally married to the decedent for a period of two years and was residing with the decedent at the time of death. The surviving spouse benefit provided in this clause is the same as that provided to those who meet the definition of surviving spouse under section 423C.01, subdivision 25, except that if the surviving spouse is younger than the decedent, the surviving spouse benefit must be actuarially equivalent to a surviving spouse benefit that would have been paid to the member's spouse had the member been married to a person of the same

or greater age than the member's age prior to retirement. A benefit paid in this circumstance may be less than 17 units notwithstanding the minimum set out in this subdivision;

(3) to each dependent, if the dependent's other parent is living, a pension not to exceed eight units per month. Dependents between the ages of 18 and 22 may continue to receive a pension upon board determination that the dependent complies with the requirements of section 423C.01, subdivision 11, and applicable association bylaws, except that if the dependent marries before the age of 22 years the pension shall cease as of the date of the marriage. The board shall make the final determination with respect to eligibility for benefits and compliance with section 423C.01, subdivision 11;

(4) each dependent of a deceased member after the death of the dependent's other parent, or in the event the other parent predeceases the member, is entitled to receive a pension in the amount the board deems necessary to properly support each dependent until the dependent reaches the age of not less than 16 and not more than 18 years. Dependents between the ages of 18 and 22 may be entitled to continue receiving a pension upon board determination that the dependent complies with the requirements of section 423C.01, subdivision 11, and applicable association bylaws, except that if the dependent marries before the age of 22 years the pension shall cease as of the date of the marriage. The board shall make the final determination with respect to eligibility for benefits and compliance; and

(5) the total pension payable to a surviving spouse and all dependents of a deceased member shall in no event exceed 42 units per month.

**Subd. 8. Optional retirement annuity election.** A member of the association who retires under subdivision 2 or becomes disabled under subdivision 6 may elect an optional retirement annuity prior to the receipt of any benefits. The optional retirement annuity may be a 50 percent, 75 percent, or 100 percent joint survivor annuity without reinstatement in the event the designated beneficiary predeceases the member or a joint and survivor annuity with reinstatement in the event the member predeceases the designated beneficiary. An optional retirement annuity must be actuarially equivalent to the service pension and automatic survivor coverage otherwise payable to the retired member and the member's beneficiaries. Once selected, the optional annuity is irrevocable.

**Subd. 9. Alternative service pension for unmarried member.** A retired member submitting an application for a service pension who was not legally married on September 1, 1997, and remained unmarried on October 25, 2001, may, if the member had obtained 25 years of service credit on or before October 25, 2001, select a service pension of 42.3 units in lieu of a service pension under subdivision 2.

**History:** *1Sp2001 c 10 art 15 s 5; 2002 c 231 s 7-10; 2004 c 267 art 8 s 37-40; 1Sp2005 c 8 art 11 s 13*

#### **423C.06 INVESTMENT-RELATED POSTRETIREMENT ADJUSTMENTS.**

**Subdivision 1. Annual adjustments.** Notwithstanding the provisions of chapter 69, or any other law to the contrary, the association may provide annual postretirement payments to eligible members under this section. No provision of or payment made under this section may be interpreted or relied upon by any member of the association to guarantee or entitle a member to annual postretirement adjustments for any period when the requirements in this section have not been met.

**Subd. 2. Actuarial assets of special fund less than 102 percent.** (a) When the actuarial assets of the special fund in any year are less than 102 percent of its accrued liabilities according to the most recent annual actuarial valuation of the special fund prepared in accordance with sections 356.215 and 356.216, investment-related postretirement adjustments shall be determined and paid pursuant to this subdivision. Payment of the annual postretirement adjustment may be made only if there is excess investment income.

(b) The board shall determine by May 1 of each year whether or not the special fund has excess investment income. The amount of excess investment income, if any, must be stated as a dollar amount and reported by the executive secretary to the mayor and governing body



of the city, the state auditor, the commissioner of finance, and the executive director of the Legislative Commission on Pensions and Retirement. The dollar amount of excess investment income up to one percent of the assets of the special fund must be applied for the purpose specified in paragraph (c). Excess investment income must not be considered as income to or assets of the special fund for actuarial valuations of the special fund for that year under this section and sections 69.77, 356.215, and 356.216, except to offset the annual postretirement adjustment. Additional investment income is any realized or unrealized investment income other than the excess investment income and must be included in the actuarial valuations performed under this section and sections 69.77, 356.215, and 356.216.

(c) The amount determined under paragraph (b) must be applied as follows: the association shall apply the first one-half of one percent of assets that constitute excess investment income to the payment of an annual postretirement adjustment to eligible members and the second one-half of one percent of assets which constitute excess investment income shall be applied to reduce the state amortization state aid or supplementary amortization state aid payments otherwise due the association under section 423A.02 for the current calendar year. The amounts of all payments to eligible members shall not exceed one-half of one percent of the assets of the fund. The amount of each eligible member's postretirement adjustment shall be calculated by dividing the total number of units to which eligible members are entitled into the excess investment income available for distribution to eligible members, and then multiplying that result by the number of units to which each eligible member is entitled. If this amount exceeds the total monthly benefit that the eligible member was entitled to in the prior year under the terms of this chapter, the association shall pay the eligible member the lesser amount. Payment of the annual postretirement adjustment must be in a lump-sum amount on June 1 following the determination date in any year. In the event an eligible member dies prior to the payment of the annual postretirement adjustment, the executive secretary shall pay the eligible member's estate the amount to which the member was entitled.

**Subd. 3. Actuarial assets of special fund 102 percent or more.** (a) When the actuarial assets of the special fund in any year are 102 percent or more of its accrued liabilities according to the most recent annual actuarial valuation of the special fund prepared in accordance with sections 356.215 and 356.216, an investment-related postretirement adjustment shall be determined and paid pursuant to this subdivision. Payment of the annual postretirement adjustment may only be made if there is excess investment income.

(b) The board shall determine by May 1 of each year whether or not the special fund has excess investment income. The amount of excess investment income, if any, must be stated as a dollar amount and reported by the executive secretary to the mayor and governing body of the city, the state auditor, the commissioner of finance, and the executive director of the Legislative Commission on Pensions and Retirement. The dollar amount of excess investment income up to 1-1/2 percent of the assets of the fund must be applied for the purpose specified in paragraph (c). Excess investment income must not be considered as income to or assets of the special fund for actuarial valuations of the special fund for that year under this section and sections 69.77, 356.215, and 356.216, except to offset the annual postretirement adjustment. Additional investment income is any realized or unrealized investment income other than the excess investment income and must be included in the actuarial valuations performed under this section and sections 69.77, 356.215, and 356.216.

(c) The amount determined under paragraph (b) must be applied as follows: the association shall apply the 1-1/2 percent of assets that constitute excess investment income to the payment of an annual postretirement adjustment to eligible members. The amount of each eligible member's postretirement adjustment shall be calculated by dividing the total number of units to which eligible members are entitled into the excess investment income available for distribution to eligible members, and then multiplying that result by the number of units to which each eligible member is entitled. Payment of the annual postretirement adjustment must be in a lump-sum amount on June 1 following the determination date in any year. In the event an eligible member dies prior to the payment of the annual postretirement adjustment,

ment, the executive secretary shall pay the eligible member's estate the amount to which the member was entitled.

**Subd. 4. Actuarial assets of special fund 110 percent or more.** (a) When the actuarial assets of the special fund in any year are 110 percent or more of its accrued liabilities according to the most recent annual actuarial valuation of the special fund prepared in accordance with sections 356.215 and 356.216, an investment-related postretirement adjustment shall be determined and paid pursuant to this subdivision. Payment of the annual postretirement adjustment may be made only if a total excess asset amount exists.

(b) The board shall determine by May 1 of each year whether the special fund has a total excess asset amount for that year. If a total excess asset amount exists for the given year, the net total asset amount shall be determined. The executive secretary shall report the total excess asset amount and net total excess asset amount to the mayor and governing body of the city, the state auditor, the commissioner of finance, and the executive director of the Legislative Commission on Pensions and Retirement. The portion of the net excess asset amount which is distributed under this subdivision shall not be considered income to or assets of the special fund for actuarial valuations of the special fund for that year under sections 69.77, 356.215, and 356.216, and Laws 2000, chapter 461, except to offset the amount distributed.

(c) Twenty percent of the net total excess asset amount determined under paragraph (b) is available for excess asset amount payments under paragraph (d).

(d) Except as limited under paragraph (e), the net excess asset amount payment to an eligible member is equal to the amount determined under paragraph (c) multiplied by the units applicable to the eligible member and divided by the total units of all eligible members.

(e) A member who is an eligible member for the entire 12 months before the determination date is eligible for a full excess asset amount payment pursuant to paragraph (d). A member who is an eligible member for less than 12 months before the determination date is eligible for a prorated excess asset amount payment. If an eligible member dies before the determination date and before the excess asset amount payment commences, the association shall pay the eligible member's excess asset amount payment to the eligible member's surviving spouse or, if no surviving spouse, to the eligible member's estate.

(f) The excess asset amount payments determined under this subdivision commence on June 1 following the determination date. The board may disburse payments to eligible members in a lump sum, 12 monthly installments, or any other manner that the board determines.

**Subd. 5. Report on annual postretirement adjustments.** The executive secretary shall submit a report on the amount of all postretirement adjustments made under this section and the manner in which those payments were determined to the state auditor, the executive director of the Legislative Commission on Pensions and Retirement, and the city clerk.

**Subd. 6. City tax levy.** If in any year after the actuarial value of special fund assets, according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216, is greater than 102 percent of the actuarial accrued liabilities of the special fund and subsequently the actuarial value of assets is less than 100 percent of the actuarial accrued liabilities according to the most recent annual actuarial valuation prepared according to sections 356.215 and 356.216, the city of Minneapolis is not required to levy a property tax to fund any deficit unless the fund has two successive years when the actuarial value of assets is less than 100 percent of the actuarial accrued liabilities according to the most recent annual actuarial valuation prepared according to sections 356.215 and 356.216.

**History:** *1Sp2001 c 10 art 15 s 6*

#### 423C.07 ACTUARIAL VALUATION DATE.

Notwithstanding section 69.77, subdivision 10, 356.215, or 356.216, the annual actuarial valuation of the association must be completed by May 1 of each year.

**History:** *1Sp2001 c 10 art 15 s 7; 2002 c 392 art 1 s 8*

**423C.08 MEMBER CONTRIBUTION REFUND TO BENEFICIARY UPON DEATH.**

If an active, deferred, or retired member of the association dies and no survivor benefit is payable, the designated beneficiary of the decedent or, if none, the legal representative of the estate of the decedent is entitled, upon application, to a refund. The refund shall be an amount equal to the member contributions to the credit of the decedent, plus interest on those contributions at an annual compounded rate of five percent from the first day of the month following the date of the contribution to the first day of the month following the date of death of the decedent, reduced by the sum of any service pension or disability benefit previously paid by the fund to the decedent.

**History:** *1Sp2001 c 10 art 15 s 8; 1Sp2003 c 12 art 11 s 2*

**423C.09 PAYMENTS EXEMPT FROM PROCESS.**

The provisions of section 356.401 apply to the Minneapolis Firefighters Relief Association.

**History:** *1Sp2001 c 10 art 15 s 9; 1Sp2005 c 8 art 10 s 78*

**423C.10 LAW GOVERNING PENSIONS AND BENEFITS.**

A service pension or other retirement benefit for or on behalf of a member of the Minneapolis Firefighters Relief Association must be calculated under the laws, articles of incorporation, or relief association bylaws in effect on the day that the active member terminated active employment in the Minneapolis Fire Department as a firefighter.

**History:** *1Sp2001 c 10 art 15 s 10*

**423C.11 WORKERS' COMPENSATION ACT NOT AFFECTED.**

This chapter 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:** *1Sp2001 c 10 art 15 s 11*

**423C.12 RIGHT TO REDUCE PENSIONS.**

The relief association has the right and retains the right to reduce the amount of pensions and benefits paid from its special fund and to reduce and otherwise adjust those pensions and benefits. For any pension or benefit that was reduced, the relief association has the right and retains the right to increase or otherwise adjust these pensions or benefits within the limits of this chapter.

**History:** *1Sp2001 c 10 art 15 s 12*

**423C.13 FINANCE DIRECTOR TO FILE REPORT WITH THE REVENUE COMMISSIONER.**

(a) On or before March 1 each year, the Minneapolis finance director shall file with the county auditor and the commissioner of revenue a certificate stating that the Minneapolis Firefighters Relief Association exists and including any other information that the commissioner or auditor may require.

(b) The commissioner of revenue shall provide the Minneapolis finance director with the necessary documents for the city of Minneapolis and the Minneapolis Firefighters Relief Association to carry out its duties and to receive the benefits of sections 69.011 to 69.051, 297I.05, and 297I.10.

**History:** *1Sp2001 c 10 art 15 s 13*

**423C.14 STATE AUDITOR TO EXAMINE BOOKS.**

(a) The state auditor, annually, shall examine the books and accounts of the secretary and of the treasurer of the Minneapolis Firefighters Relief Association.

(b) If the state auditor finds that any money in the special fund of the relief association was expended for purposes that were not authorized by this chapter, the state auditor shall report that to the governor, who shall then direct the commissioner of finance not to issue any further warrants to the relief association until the state auditor reports that the money which was unlawfully expended has been replaced. The governor additionally may take such further action as the emergency may demand.

**History:** *1Sp2001 c 10 art 15 s 14*

#### **423C.15 ACTUARIAL PROVISIONS.**

Subdivision 1. **City normal cost contribution adjustment.** Notwithstanding sections 69.77, 356.215, and 356.216, or other law to the contrary, the required city contributions toward the association's normal cost, as determined by the actuary, are reduced below that otherwise payable by the full amount of active member contributions required by law to be directed to the association's health insurance escrow account rather than to the special fund.

Subd. 2. **Suspension of normal cost contributions.** Notwithstanding the provisions of section 69.77, or any other law to the contrary, if a total excess asset amount exists, as defined in section 423C.01, subdivision 27, paragraph (a), the city is not required to make a contribution to the fund for the normal cost of active members.

Subd. 3. **Amortization treatment.** Notwithstanding section 69.77, subdivision 4, 356.215, 356.216, or any other law to the contrary, if the actuarial report for the Minneapolis Firefighters Relief Association indicates an unfunded actuarial accrued liability, the unfunded obligation is to be amortized on a level dollar basis by December 31 of the year occurring 15 years later. If subsequent actuarial valuations determine a net actuarial experience loss incurred during the year which ended as of the day before the most recent actuarial valuation date, any unfunded liability due to that loss is to be amortized on a level dollar basis by December 31 of the year occurring 15 years later.

Subd. 4. **Limitation.** Notwithstanding subdivision 3, the amortization period may not exceed the average life expectancy of the remaining members.

**History:** *1Sp2001 c 10 art 15 s 15; 2002 c 392 art 1 s 8*

#### **423C.16 RECOMPUTATION OF DISABLED BENEFIT PROHIBITED.**

Notwithstanding section 423A.11, the Board of Trustees of the Minneapolis Firefighters Relief Association shall not recompute the disability benefit of a member who became permanently disabled as the result of a service-related disease or injury. Any prior recomputation of a disabled member's service-related disability pension shall be revoked upon the member's request and upon the member's signed and sworn agreement to waive any right to a recomputation of the benefit in the future. Non-service-related disability pension benefits that were recomputed at full 25-year service pensions shall remain in effect.

**History:** *1Sp2005 c 8 art 11 s 14*