

**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*