

Sec. 9. **EFFECTIVE DATE.**

Sections 1 to 8 are effective August 1, 1983 and apply to crimes committed on or after that date.

Approved June 1, 1983

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**CHAPTER 218 — S.F.No. 92**

*An act relating to towns, cities, and counties; requiring other government units to give notice to towns, cities, and counties of actions that affect land use or taxation; proposing new law coded in Minnesota Statutes, chapter 471.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[471.99] NOTICE OF GOVERNMENT ACTION.**

Except when other notice is required by law, the state, or any of its political subdivisions, shall give any affected town, statutory or home rule charter city, and county 30 days prior written notice of any action by the state or political subdivision that will directly affect the use of land in the town, statutory or home rule charter city, or county relating to sanitary landfills, waste disposal sites, construction of new buildings, roads, and related facilities where the cost exceeds \$15,000, and park establishments or boundary expansions. Master plans prepared pursuant to section 86A.09 shall be considered adequate notice as required by this section. Failure to give any notice required by this section shall not be grounds for a civil or criminal action of any nature against any party, for the imposition of a civil or criminal penalty against any party or for the challenge or invalidation of any action taken by the state, a political subdivision or any other party.

Approved June 1, 1983

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**CHAPTER 219 — S.F.No. 160**

*An act relating to retirement; volunteer firefighters' relief associations; adding definitions; providing for distribution of assets upon dissolution; clarifying ambiguous language; amending Minnesota Statutes 1982, sections 69.772, subdivisions 1, 2, and 3; 424A.01; 424A.02; 424A.03, subdivision 1; 424A.04; 424A.05; and 424A.08; proposing new law coded in Minnesota Statutes, chapter 424A; repealing Minnesota Statutes 1982, section 424.26.*

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 69.772, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** This section shall apply to any firefighter's relief association specified in section 69.771, subdivision 1, which pays a lump sum service pension, but which does not pay a monthly service pension, to a retiring firefighter when at least the minimum requirements for entitlement to a service pension specified in section 424A.02, or any applicable special legislation and the articles of incorporation or bylaws of the relief association have been met. Each firefighter's relief association to which this section applies shall determine the accrued liability of the special fund of the relief association in accordance with the applicable accrued liability table set forth in subdivision 2 and the financial requirements of the relief association and the minimum obligation of the municipality in accordance with the procedure set forth in subdivision 3.

Sec. 2. Minnesota Statutes 1982, section 69.772, subdivision 2, is amended to read:

Subd. 2. **DETERMINATION OF ACCRUED LIABILITY.** Each firefighters' relief association which pays a service pension when a retiring firefighter meets the minimum requirements for entitlement to a service pension specified in section 424A.02 and which in its articles of incorporation or bylaws requires service credit for a period of service less than 20 years of active service for a totally nonforfeitable service pension as provided in section 424A.09 shall determine the accrued liability of the special fund of the firefighters' relief association relative to each active or deferred member of the relief association, calculated individually using the following table:

Cumulative Year	Accrued Liability
.....	.....
1	\$35
2	71
3	110
4	150
5	192
6	236
7	283
8	332
9	383
10	437
11	494
12	553
13	616
14	681
15	750

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16 and thereafter

50 additional per  
year

Each firefighters' relief association which pays a service pension when a retiring firefighter meets the minimum requirements for entitlement to a service pension specified in section 424A.02 and which in its articles of incorporation or bylaws requires service credit for a period of service of at least 20 years of active service for a totally nonforfeitable service pension shall determine the accrued liability of the special fund of the firefighters' relief association relative to each active or deferred member of the relief association, calculated individually using the following table:

Cumulative Year .....	Accrued Liability .....	
1	\$30	<u>60</u>
2	62	<u>124</u>
3	95	<u>190</u>
4	130	<u>260</u>
5	167	<u>334</u>
6	205	<u>410</u>
7	246	<u>492</u>
8	288	<u>576</u>
9	333	<u>666</u>
10	380	<u>760</u>
11	429	<u>858</u>
12	481	<u>962</u>
13	535	<u>1070</u>
14	592	<u>1184</u>
15	652	<u>1304</u>
16	714	<u>1428</u>
17	780	<u>1560</u>
18	849	<u>1698</u>
19	922	<u>1844</u>
20	1000	<u>2000</u>
21 and thereafter	50	<u>100</u> additional per year

The accrued liability of the special fund for each active or deferred member of the relief association shall be determined as the multiple or portion of the accrued liability amounts corresponding to the cumulative years of active service with the fire department to which the relief association is affiliated to the credit of the member as set forth in the applicable table that the lump sum service pension amount currently provided for in the articles of incorporation or the bylaws of the relief association bears to a lump sum service pension of \$50 per year of service As set forth in the table the accrued liability for each member or deferred member of the relief association corresponds to the cumulative years of

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active service to the credit of the member. The accrued liability of the special fund for each active or deferred member is determined by multiplying the accrued liability from the chart by the ratio of the lump sum service pension amount currently provided for in the bylaws of the relief association to a service pension of \$100 per year of service. If a member has fractional service as of December 31, the figure for service credit to be used for the determination of accrued liability pursuant to this section shall be rounded up to the nearest full year of service credit. The total accrued liability of the special fund of the relief association as of December 31 shall be the sum of the accrued liability attributable to each active or deferred member of the relief association.

Sec. 3. Minnesota Statutes 1982, section 69.772, subdivision 3, is amended to read:

Subd. 3. **FINANCIAL REQUIREMENTS OF THE RELIEF ASSOCIATION; MINIMUM OBLIGATION OF THE MUNICIPALITY.** During the month of July, the officers of the relief association shall determine the overall funding balance of the special fund of the relief association for the current calendar year, the financial requirements of the special fund of the relief association for the following calendar year and the minimum obligation of the municipality with respect to the special fund of the relief association for the following calendar year in accordance with the requirements of this subdivision.

(1) The overall funding balance of the special fund of the relief association for the current calendar year shall be determined in the following manner:

(a) The total accrued liability of the special fund of the relief association for all active and deferred members of the relief association as of December 31 of the current year shall be calculated pursuant to subdivisions 2 and 2a, if applicable.

(b) The total present assets of the special fund of the relief association projected to December 31 of the current year, including receipts by and disbursements from the special fund anticipated to occur on or before December 31 shall be calculated.

(c) The amount of the total present assets of the special fund of the relief association calculated pursuant to clause (b) shall be subtracted from the amount of the total accrued liability of the special fund of the relief association calculated pursuant to clause (a). If the amount of total present assets exceeds the amount of the total accrued liability, then the special fund shall be considered to have a surplus over full funding. If the amount of the total present assets is less than the amount of the total accrued liability, then the special fund shall be considered to have a deficit from full funding. If the amount of total present assets is equal to the amount of the total accrued liability, then the special fund shall be considered to be fully funded.

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(2) The financial requirements of the special fund ~~of the relief association~~ for the following calendar year shall be determined in the following manner:

(a) The total accrued liability of the special fund ~~of the relief association~~ for all active and deferred members of the relief association as of December 31 of the calendar year next following the current calendar year shall be calculated pursuant to subdivisions 2 and 2a, if applicable.

(b) The increase ~~or decrease~~ in the total accrued liability of the special fund ~~of the relief association~~ for the following calendar year over the total accrued liability of the special fund ~~of the relief association~~ for the current year shall be calculated.

(c) If the special fund ~~of the relief association~~ is fully funded, the financial requirement of the special fund for the following calendar year shall be ~~either the positive or the negative~~ figure which represents the increase ~~or the decrease~~ in the total accrued liability of the special fund ~~respectively~~ as calculated pursuant to subclause (b).

(d) If the special fund ~~of the relief association~~ has a deficit from full funding, the financial requirements of the special fund for the following calendar year shall be the financial requirements of the special fund calculated as though the special fund were fully funded pursuant to subclause (c) plus an amount equal to one-tenth of the amount of the deficit from full funding of the special fund as determined pursuant to this section for the calendar year 1971 until that deficit is fully retired, and plus an amount equal to one-tenth of the increase in the deficit from full funding of the special fund resulting from an increase in the amount of the service pension accruing subsequent to December 31, 1971 until each increase in the deficit is fully retired.

(e) If the special fund ~~of the relief association~~ has a surplus over full funding, the financial requirements of the special fund for the following calendar year shall be the financial requirements of the special fund calculated as though the special fund were fully funded pursuant to subclause (c) reduced by an amount equal to one-tenth of the amount of the surplus over full funding of the special fund.

(3) The minimum obligation of the municipality with respect to the special fund ~~of the relief association~~ shall be the financial requirements of the special fund ~~of the relief association~~ reduced by the amount of any fire state aid payable pursuant to sections 69.011 to 69.051 anticipated to be received by the municipality for transmittal to the special fund ~~of the relief association~~ during the following calendar year, an amount of interest on the assets of the special fund projected to the ~~end of the current~~ beginning of the following calendar year calculated at the rate of five percent per annum, and the amount of any anticipated contributions to the special fund by the members of the relief association during the following calendar year.

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Sec. 4. [424A.001] DEFINITIONS.

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

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

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

Subd. 4. RELIEF ASSOCIATION. "Relief association" means (a) a volunteer firefighters' relief association or volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association organized and incorporated under chapter 317 and any laws of the state, governed by chapters 69 and 424A, and directly associated with a fire department established by municipal ordinance; or (b) any separate incorporated volunteer firefighters' relief association subsidiary to and providing service pension and retirement benefit coverage for members of an independent nonprofit firefighting corporation organized under the provisions of chapter 317, governed by chapter 424A, and operating exclusively for firefighting purposes.

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

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

Sec. 5. Minnesota Statutes 1982, section 424A.01, is amended to read:

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

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

Subd. 2. STATUS OF SUBSTITUTE OR PROBATIONARY VOLUNTEER FIREFIGHTERS. No person who is serving as a substitute or a

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probationary volunteer firefighter shall be deemed to be a firefighter for purposes of chapter 69 or this chapter nor shall be authorized to be a member of any volunteer firefighters' relief association governed by chapter 69 or this chapter.

Subd. 3. **STATUS OF NONMEMBER VOLUNTEER FIREFIGHTERS.** No person who is serving as a firefighter in a ~~municipal~~ fire department or an ~~independent nonprofit firefighting corporation~~ but who is not a member of the applicable firefighters' relief association shall be entitled to any service pension, ~~retirement~~ or ~~ancillary~~ benefits or pension or retirement benefit coverage from the relief association.

Subd. 3a. **SERVICE CREDIT FOR CERTAIN PROBATIONARY VOLUNTEER FIREFIGHTERS.** Unless the bylaws of the ~~volunteer firefighters~~ relief association clearly provide to the contrary, any person:

(a) who has served as a probationary volunteer firefighter with a ~~municipal~~ fire department ~~to with~~ which a ~~volunteer firefighters~~ relief association governed by ~~chapter 69~~ and ~~this chapter~~ is directly associated or with an ~~independent nonprofit firefighting corporation~~ to which a ~~volunteer firefighters~~ relief association governed by ~~chapter 69~~ and ~~this chapter~~ is subsidiary; and

(b) who is a member of that ~~volunteer firefighters~~ relief association; shall be ~~is~~ entitled to have the period of service as a probationary volunteer firefighter credited as a period of active service as an active member of the ~~municipal~~ fire department or the ~~independent nonprofit firefighting corporation~~, whichever is applicable, for purposes of calculating a service pension or other ~~retirement~~ ancillary benefits.

Subd. 4. **EXCLUSION OF PERSONS CONSTITUTING AN UNWARRANTED HEALTH RISK.** The board of trustees of every ~~volunteer firefighters'~~ relief association governed by ~~chapter 69~~ or ~~this chapter~~ shall have the right to ~~may~~ exclude from membership in the relief association all applicants who, due to some medically determinable physical or mental impairment or condition, would constitute for the ~~relief association~~ a predictable and unwarranted risk of the ~~commencement~~ of a retirement imposing liability for an ancillary benefit at any age earlier than the minimum age specified for receipt of a service pension. Notwithstanding any provision of section 363.02, subdivision 5, it shall be a good and valid defense to a complaint or action brought under chapter 363 that the board of trustees of the relief association made a good faith determination that the applicant suffers from an impairment or condition constituting a predictable and unwarranted risk for the relief association if the determination was made following consideration of: (a) the person's medical history; and (b) the report of the physician completing a physical examination of the applicant completed at the expense of the relief association and of ~~the person's medical history.~~

Sec. 6. Minnesota Statutes 1982, section 424A.02, is amended to read:

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#### 424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.

Subdivision 1. **AUTHORIZATION.** Any volunteer firefighters' relief association or ~~volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association organized and incorporated under chapter 317 and any laws of the state and directly associated with a fire department established by municipal ordinance or any separate incorporated volunteer firefighters' relief association subsidiary to and providing service pension and retirement benefit coverage for members of an independent nonprofit firefighting corporation organized under the provisions of chapter 317 and operating exclusively for fire fighting purposes, whether or not the nonprofit firefighting corporation qualifies for fire state aid pursuant to chapter 69, when its articles of incorporation or bylaws so provide, may pay out of the assets of the its special fund of the volunteer firefighters' relief association or volunteer firefighters' account, a service pension to each of its members who: (1) separates from active service with the fire department or the independent nonprofit firefighting corporation, who; (2) reaches the age of 50 years and who; (3) completes at least ten years of active service as an active member of the municipal fire department to which the relief association is associated or of the independent nonprofit firefighting corporation to which the relief association is subsidiary, and who; (4) completes at least ten years of active membership with the volunteer firefighters' relief association or volunteer firefighters' account prior to separation from active service; and who (5) complies with any additional conditions as to age, service and membership which are prescribed by the bylaws of the relief association. The service pension may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for fire state aid under chapter 69. In the case of a member who has completed at least ten years of active service as an active member of the municipal fire department to which the relief association is associated or of the independent nonprofit firefighting corporation to which the relief association is subsidiary on the date that the volunteer firefighters' relief association is established and incorporated, the requirement that the member complete at least ten years of active membership with the volunteer firefighters' relief association or volunteer firefighters' account prior to separation from active service may be waived by the board of trustees of the relief association if the member completes at least ten years of inactive membership with the volunteer firefighters' relief association or volunteer firefighters' account prior to the payment of the service pension. During the period of inactive membership, the member shall not be entitled to receive any disability benefit coverage, shall not be entitled to receive any additional service credit towards computation of a service pension, and shall be deemed to have the status of a person entitled to a deferred service pension pursuant to subdivision 7.~~

No municipality or nonprofit firefighting corporation is authorized to delegate the power to take final action in setting a service pension or retirement ancillary benefit amount or level to the board of trustees of the ~~volunteer~~

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~~firefighters relief association or to approve in advance a service pension or retirement ancillary benefit amount or level equal to the maximum amount or level which this chapter would allow rather than a specific dollar amount or level.~~

~~No volunteer firefighters' relief association or volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association is authorized to as defined in section 424A.001, subdivision 4, shall pay a service pension or disability benefit to any former member of the relief association if that person has not separated from active service with the fire department to which the volunteer firefighters' relief association is directly associated or with the independent nonprofit firefighting corporation to which the volunteer firefighters' relief association is subsidiary.~~

Subd. 2. **NONFORFEITABLE PORTION OF SERVICE PENSION.** Any volunteer firefighters' relief association or volunteer firefighters' account to which this section applies, when its articles of incorporation or bylaws so provide and when a retiring member meets the minimum age and service requirements set forth in subdivision 1 but has not completed 20 years of service may pay a portion of the service pension amount earned to date as specified in the bylaws, but not to exceed the percentage applicable for each full year of service completed as follows:

Completed Years of Service	Nonforfeitable Portion of Annual or Prorata Ser- vice Pension Amount
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If the articles of incorporation or bylaws of a relief association so provide, a relief association may pay a reduced service pension to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

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

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage of Pension Amount</u>
10	60 percent
11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent

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16	84 percent
17	88 percent
18	92 percent
19	96 percent
20 and thereafter	100 percent

Subd. 3. **FLEXIBLE SERVICE PENSION MAXIMUMS.** On or before August 1 of each year as part of the certification of the financial requirements and minimum municipal obligation made pursuant to section 69.772, subdivision 4, or 69.773, subdivision 5, the secretary or some other official of the relief association designated in the bylaws of each ~~volunteer firefighters' relief association or volunteer firefighters' account, other than a relief association or account which in its bylaws provides solely for the payment of a defined contribution service pension as authorized pursuant to subdivision 4,~~ shall calculate and certify to the governing body of the applicable qualified municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing shall include any amounts of fire state aid received or receivable by the relief association ~~or account,~~ any amounts of municipal contributions to the relief association ~~or account~~ raised from levies on real estate or from other available revenue sources exclusive of fire state aid, and one-tenth of the amount of assets in excess of the accrued liabilities of the relief association ~~or account~~ calculated pursuant to sections 69.772, subdivision 2; 69.773, subdivisions 2 and 4; or 69.774, subdivision 2, if any. The maximum service pension which the relief association may provide for in its bylaws for payment to a member retiring after the calculation date when the minimum age and service requirements specified in subdivision 1 are met shall be determined using the applicable following table.

For a relief association ~~or account~~ where the governing bylaws provide for a monthly service pension to a retiring member, if the average amount of available financing per active covered firefighter does not exceed the minimum average amount specified below, then the maximum monthly service pension amount per month for each year of service credited which may be provided for in the bylaws shall be the greater of: (1) the service pension amount provided for in the bylaws on the date of calculation; or (2) the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

Minimum Average Amount of Available Financing per Firefighter	Maximum Service Pension Amount Payable per Month for Each Year of Service
\$.....	\$ .25
37	.50
75	1.00
112	1.50
149	2.00
186	2.50

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224	3.00
261	3.50
298	4.00
336	4.50
373	5.00
447	6.00
522	7.00
597	8.00
671	9.00
746	10.00
820	11.00
895	12.00
969	13.00
1044	14.00
1119	15.00
1193	16.00
1268	17.00
1342	18.00
1417	19.00
1491	20.00
1566	21.00
1640	22.00
1678 or more	22.50

For a relief association or account in which the governing bylaws provide for a lump sum service pension to a retiring member, if the average amount of available financing per active covered firefighter does not exceed the minimum average amount specified below, then the maximum lump sum service pension amount for each year of service credited which may be provided for in the bylaws shall be the greater of: (1) the service pension amount provided for in the bylaws on the date of the calculation; or (2) the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

Minimum Average Amount of Available Financing per Firefighter \$.....	Maximum Lump Sum Service Pension Amount Payable for Each Year of Service \$10
10	20
14	30
20	40
24	50
28	60
38	80
48	100
58	120
68	140
76	160

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86	180
96	200
116	240
134	280
154	320
172	360
192	400
212	440
230	480
250	520
268	560
288	600
308	640
326	680
346	720
364	760
384	800
432	900
480	1000
528	1100
576	1200
624	1300
672	1400
720	1500
768	1600
816	1700
864	1800
912	1900
960	2000
1008	2100
1056	2200
1104	2300
1152	2400
1200	2500
1248	2600
1296	2700
1344	2800
1392	2900
1440 or more	3000

For a relief association or account in which the governing bylaws provide for a monthly benefit service pension as an alternative form of service pension payment to a lump sum service pension at the option of the retiring member, the maximum service pension amount shall be determined using the applicable table contained in this subdivision.

**Subd. 4. DEFINED CONTRIBUTION LUMP SUM SERVICE PENSIONS.** If the bylaws governing the ~~volunteer firefighters'~~ relief association or

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

Subd. 5. **SERVICE CREDIT MAXIMUM.** No relief association or account to which this chapter applies and where for which the governing bylaws provide for a monthly service pension to a retiring member shall credit any member with service in excess of 30 years; provided, however, that for any. For a member of a relief association or account who, as of July 1, 1979, has received credit for service in excess of 30 years, the limitation on the crediting of further service credit provided for in this subdivision ~~shall apply~~ applies to any additional years of service occurring after July 1, 1979.

Subd. 6. **PAYMENT OF SERVICE PENSIONS; NONASSIGNABILITY.** The method of calculating service pensions shall be applied uniformly, except as otherwise provided in this section. No service pension shall be paid to any person while the person remains an active member of the respective municipal fire department or nonprofit firefighting corporation, and no person who is receiving a service pension shall be entitled to receive any other benefits from the special fund of the relief association or account. No service pension or ~~retirement~~ ancillary benefits paid or payable from the special fund of a relief

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association or account to any person receiving or entitled to receive a service pension or other ancillary benefits shall be subject to garnishment, judgment, execution or other legal process and. No person entitled to a service pension or other retirement ancillary benefits from the special fund of a relief association or account shall have the right to may assign any service pension or retirement ancillary benefit payments, nor shall the association have the authority to recognize any assignment or pay over any sum which has been assigned.

Subd. 7. **DEFERRED SERVICE PENSIONS.** A member of a relief association or account to which this section applies who is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the municipal fire department or independent nonprofit firefighting corporation specified in the bylaws or 20 years of active service with the municipal fire department to which the relief association or account is directly associated with or the independent nonprofit firefighting corporation of which the relief association is a subsidiary, who;

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

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

Subd. 8. **LUMP SUM SERVICE PENSIONS; INSTALLMENT PAYMENTS.** Any relief association or account, if the governing bylaws so provide, may pay, at the option of the retiring member and in lieu of a single

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payment of a lump sum service pension, ~~pay~~ a lump sum service pension in installments.

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

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

Subd. 9. **LIMITATION ON RETIREMENT ANCILLARY BENEFITS OTHER THAN SERVICE PENSION.** Any relief association ~~or account~~ to which this section applies, if the governing bylaws so provide, may provide retirement coverage for and may pay any one or any combination death, disability, funeral and survivorship ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following limitations:

(1) (a) With respect to a relief association ~~or account where the~~ in which governing bylaws provide for a lump sum service pension to a retiring member, no retirement ancillary benefit may be paid to any former member or paid to any person on behalf of any former member ~~subsequent to~~ after the former member terminating (1) terminates active service with the ~~municipal~~ fire department to which the relief association ~~or account is directly associated or the independent nonprofit firefighting corporation of which the relief association is a subsidiary, whichever is applicable,~~ and active membership in the relief association ~~or account;~~ and commencing (2) commences receipt of a service pension as authorized pursuant to this section; and

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

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

Subd. 9a. **POST RETIREMENT INCREASES.** Notwithstanding any provision of general or special law to the contrary, a volunteer firefighters' relief association paying a monthly service pension may, from time to time, with municipal approval pursuant to subdivision 10 and section 69.772, subdivision 6, or section 69.773, subdivision 6, whichever is applicable, provide a post retirement increase to retired members and other retirement ancillary benefit recipients of the relief association if (1) the relief association adopts an appropriate bylaw amendment; and (2) the bylaw amendment is approved by the municipality pursuant to subdivision 10 and section 69.773, subdivision 6. The post retirement increase may only be granted pursuant to an amendment to the bylaws of the relief association and shall be applicable only to retired members and other retirement ancillary benefit recipients receiving a service pension or retirement ancillary benefit as of the effective date of the bylaw amendment. The authority to provide a post retirement increase to retired members and other retirement ancillary benefit recipients of a relief association contained in this subdivision shall supersede any prior special law authorization relating to the provision of post retirement increases.

Subd. 10. **LOCAL APPROVAL OF BYLAW AMENDMENTS; FILING REQUIREMENTS.** Each relief association or account to which this section applies shall file a complete current copy of its governing bylaws with the commissioner of insurance on or before July 1, 1980 and shall immediately file a revised copy of its governing bylaws with the commissioner of insurance upon the adoption of any amendment to its governing bylaws by the relief association or upon the approval of any amendment to its governing bylaws granted by the governing body of the each municipality in which served by the fire department to which the relief association or account is directly associated or by the governing bodies of all municipalities with which the independent nonprofit firefighting corporation of which the relief association is a subsidiary has contracted whichever is applicable. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the commissioner of insurance shall

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disqualify the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

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

If the relief association pays only a lump sum pension, the financial requirements are to be determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change, if the relief association pays only a lump sum service pension or. If the relief association pays a monthly benefit service pension, the financial requirements are to be determined by the board of trustees following either an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association if the relief association pays a monthly benefit service pension. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund ~~of the relief association~~

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

**Subd. 11. DISTRIBUTION OF ASSETS UPON DISSOLUTION IN CERTAIN CASES.** If the fire department which is associated with a relief association is dissolved or eliminated by action of the governing body of the municipality in which the fire department is located, the relief association shall distribute its assets and be dissolved in the following manner:

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

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

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

Sec. 7. Minnesota Statutes 1982, section 424A.03, subdivision 1, is amended to read:

**Subdivision 1. LIMITATION ON NONUNIFORMITY OF PENSIONS.** ~~No Every~~ partially salaried and partially volunteer firefighters' relief association shall provide service pensions to volunteer firefighter members which differ in nature or amount if the difference is based on compensation paid for firefighting services rendered by any firefighter member nor base the service pensions and retirement benefits it provides upon any rate or amount of compensation which is paid for firefighting services based on the years of service of the members not on the compensation paid to the members for firefighting services. Each relief association shall provide service pensions to salaried members as set forth in chapter 424 and applicable special laws.

Sec. 8. Minnesota Statutes 1982, section 424A.04, is amended to read:

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

Subdivision 1. **MEMBERSHIP.** Every ~~volunteer firefighters'~~ relief association directly associated with a municipal fire department shall be managed by a board of trustees consisting of nine members. Six trustees shall be elected from the membership of the relief association and three trustees shall be drawn from the officials of the ~~municipality which has a municipalities served by the fire department to which the relief association is directly associated or the municipality which contracts or the municipalities which contract with the independent nonprofit firefighting corporation of which the relief association is a subsidiary.~~ The bylaws of a ~~volunteer firefighters'~~ relief association may provide that one of the six trustees ~~required to be elected from the membership of the relief association~~ may be a retired member of the relief association receiving a monthly pension who is elected by the membership of the fire department relief association. The three ex officio trustees, ~~if the relief association is directly associated with the fire department of a municipality,~~ shall be the mayor, the clerk, clerk-treasurer or finance director, and the chief of the municipal fire department. ~~The three ex officio trustees, if the~~

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

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

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

(3) if three or more municipalities contract with the independent nonprofit corporation, the ex officio trustees shall be one elected official of each of the three largest municipalities in population who are designated by the governing bodies of

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the applicable municipalities if ~~three or more municipalities contract with the independent nonprofit firefighting corporation.~~ An ex officio trustee shall have all of the rights and duties accorded to any other trustee except the right to be an officer of the board of trustees. A board shall have at least three officers, which shall be a president, a secretary and a treasurer. These officers shall be elected from among the elected trustees by either the full board of trustees or by the membership, as specified in the bylaws, and in no event shall any trustee hold more than one officer position at any one time. The terms of the elected trustees and of the officers of the board shall be specified in the bylaws of the relief association, but shall not exceed three years. If the term of the elected trustees exceeds one year, the election of the various trustees elected from the membership shall initially and shall thereafter continue to be staggered on as equal a basis as is practicable.

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

Sec. 9. Minnesota Statutes 1982, section 424A.05, is amended to read:

**424A.05 RELIEF ASSOCIATION SPECIAL FUND.**

Subdivision 1. **ESTABLISHMENT OF SPECIAL FUND.** Every ~~volunteer firefighters'~~ relief association shall establish and maintain a special fund within the relief association.

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

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Subd. 3. **AUTHORIZED DISBURSEMENTS FROM THE SPECIAL FUND.** Disbursements from the special fund shall not be made for any purpose other than one of the following:

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

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

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

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

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

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

Subd. 4. **INVESTMENTS OF ASSETS OF THE SPECIAL FUND.** The assets of the special fund shall be invested only in securities authorized by section 69.775.

Subd. 5. **DEFINITION OF SURVIVING SPOUSE.** For purposes of this section, section 424A.02, and the governing bylaws of any relief association to which this chapter applies, the term "surviving spouse" means any person who was the dependent spouse of a deceased active member or retired former member living with the member at the time of the death of the active member or retired former member for at least one year prior to the date on which the member terminated active service and membership.

Sec. 10. Minnesota Statutes 1982, section 424A.08, is amended to read:

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

Any qualified municipality which is entitled to receive fire state aid but which has no volunteer firefighters' relief association directly associated with its

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~~municipal fire department and does not contract with an independent nonprofit firefighting corporation which has a subsidiary volunteer firefighters' relief association, shall deposit the fire state aid in a special account in the municipal treasury. Disbursement from the special account shall not be made for any purpose except:~~

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

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

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

Sec. 11. **REPEALER.**

Minnesota Statutes 1982, section 424.26, is repealed.

Sec. 12. **EFFECTIVE DATE.**

This act is effective the day following final enactment.

Approved June 1, 1983

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**CHAPTER 220 — S.F.No. 161**

*An act relating to the city of Minneapolis; changing the position of cable communications officer to the unclassified service; changing procedures for the appointment of certain positions; providing for the right to retain certain benefits for employees; permitting the transfer of certain employees to the community development agency; amending Laws 1969, chapter 937, section 1, subdivisions 9, as amended, and 17, and by adding a section, and Laws 1980, chapter 595, section 2, subdivision 1, as amended.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Laws 1969, chapter 937, section 1, subdivision 9, as added by Laws 1982, chapter 491, section 2, is amended to read:

Subd. 9. The city coordinator of the city of Minneapolis may appoint a person to the following positions to perform the duties and services he may direct:

- (a) Purchasing agent;
- (b) Management information services director;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.