

## CHAPTER 69

INSURANCE DIVISION; FIRE AND POLICE DEPARTMENT AID  
AND FIREMENS AND POLICEMENS RELIEF.

**GENERAL.** The state is not infringing on municipalities constitutional right to self-government by the setting up of machinery for the creation of pension systems in cities. To the extent that any city charter amendment dealing with pensions conflicts with the statutory provisions on the subject, the amendment is superseded. 1934 OAG 67.

**69.01 CLERK TO FILE CERTIFICATE.**

**HISTORY.** 1903 c. 20 s. 2; R.L. 1905 s. 1650; G.S. 1913 s. 3342; G.S. 1923 s. 3723; M.S. 1927 s. 3723; 1935 c. 280 s. 1; 1943 c. 75 s. 1.

It is for the village council to determine whether or not the fire department may borrow money from the fire department relief association in order to obtain present money with which to purchase uniforms. 1938 OAG 47, May 6, 1938 (198b-5).

**69.02 REPORT OF PREMIUMS; CERTIFICATE OF COMMISSIONER.**

**HISTORY.** 1903 c. 20 s. 3; R.L. 1905 s. 1651; G.S. 1913 s. 3343; 1919 c. 397 s. 1; G.S. 1923 s. 3724; M.S. 1927 s. 3724; 1935 c. 280 s. 2; 1943 c. 75 s. 2.

**69.03 AUDITORS WARRANT.**

**HISTORY.** 1903 c. 20 s. 4; R.L. 1905 s. 1652; G.S. 1913 s. 3344; 1919 c. 397 s. 2; G.S. 1923 s. 3725; M.S. 1927 s. 3725.

Laws 1939, Chapter 431, Article 2, Section 16, does not apply or control as to the duties of the state auditor under sections 69.01 to 69.03 or to 69.34. 1940 OAG 279, Sept. 2, 1939 (640a).

The association may use funds to build, purchase or repair for the use of the association, but may not build for the sole purpose of renting the building as an investment. 1940 OAG 126, Jan. 18, 1940 (198b-10a).

Laws 1941, Chapter 267 (sections 424.01 to 424.29) is a complete code to regulate the establishment and operation of firemen's relief associations in cities of the second class. 26 MLR 248.

The state auditor's warrant under this section should be to the village treasurer and not to the relief association. OAG Dec. 7, 1943 (198b-8).

**69.04 SPECIAL FUND; DISBURSEMENTS; PAYMENTS TO RELIEF ASSOCIATION.**

**HISTORY.** 1903 c. 20 s. 6; R.L. 1905 s. 1653; 1909 c. 237 s. 1; G.S. 1913 s. 3345; 1917 c. 207 s. 1; 1919 c. 326 s. 1; G.S. 1923 s. 3726; 1927 c. 373; M.S. 1927 s. 3726; 1929 c. 165 s. 1; 1943 c. 323 s. 2; 1945 c. 225 s. 1.

(1) This section does not authorize the granting of a pension for disability not caused by service in the fire department. There must be causal connection before a pension is authorized. *Renz v Hibbing Firemens Relief Ass'n*, 186 M 370, 243 NW 713.

We do not believe that *Renz v Hibbing Firemens Relief Ass'n*, 186 M 370, 243 NW 713, limits the payment of pensions only to widows of firemen injured in line of service. 1936 OAG 30.

Relief is not limited to those incurring sickness or injury in discharge of duties as firemen. 1906 OAG 136; 1914 OAG 221; 1919 OAG 552.

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Where the widow of a fireman remarried and the marriage was subsequently annulled, the judgment of nullity did not restore her to defendant's pension rolls. *Northrup v St. Paul F. D. Relief Ass'n*, 193 M 623, 259 NW 185.

The fund may not be used for the payment of premiums for group insurance, the benefits of which go to the relief of firemen. The sickness, disability, injury, or death must occur before the funds may be disbursed. 1926 OAG 14.

(2) This section authorizes the building of necessary buildings, rooms or premises but does not authorize the construction of a building for the express purpose of renting part of it for commercial use. 1940 OAG 126.

Salaries of members of the fire department may be paid from funds received from the state insurance tax. 1908 OAG 108; 1912 OAG 336.

Interest on money received from the state must be used as though it were principal. 1912 OAG 339; 1916 OAG 285.

**INCORPORATION.** The relief association and not the fire department must be incorporated if the relief department as such is to disburse the money. 1906 OAG 137.

**SERVICE PENSIONS.** If the fund is paid to the municipality, it must be used for the relief of sick, injured, or disabled members, their widows and orphans, or for the maintenance of the department, but if it is handled by an authorized relief association it may use the funds for the further purpose of paying service pensions. 1916 OAG 286.

**NATURE OF PENSION.** There is no vested right in a pension accruing in the future from month to month, but a pension already accrued cannot be taken away. *Gibbs v Minneapolis F. D. Relief Ass'n*, 125 M 174, 145 NW 1075, Ann. Cas. 1915C 749.

A cause of action in favor of one entitled to be placed on the pension rolls arises upon refusal to grant his application and time begins to run against him then. *Lund v Minneapolis F. D. Relief Ass'n*, 137 M 395, 163 NW 742.

If the plaintiff sustained injuries while an active fireman, which incapacitated him for the duties of a fireman, he was entitled to be placed upon the pension roll of the association upon application. This right vested upon his ceasing to be a member of the department, but, like an easement, may be lost by abandonment. *Davis v Minneapolis F. D. Relief Assn*, 137 M 397, 163 NW 743.

**WORKMEN'S COMPENSATION.** The receipt of benefit funds under this section does not diminish the amount recoverable under the workmen's compensation law. *State ex rel v Dist. Ct.* 134 M 28, 158 NW 791, Ann. Cas. 1918B 635.

Unless the by-laws of the association limit the payment of relief to firemen, who are actually engaged in the performance of their duties, relief may be paid though the disability was not incurred in the line of duty. 1936 OAG 30, Jan. 6, 1936 (688m).

Charter provisions relating to pensions, are superseded by statutory provisions insofar as they conflict with the declared policy of the state. 1934 OAG 67, Aug. 22, 1934 (335d).

### 69.05 ANNUAL REPORT; EXAMINATION OF BOOKS.

**HISTORY.** 1903 c. 20 s. 6; R.L. 1905 s. 1654; G.S. 1913 s. 3346; G.S. 1923 s. 3727; M.S. 1927 s. 3727; 1943 c. 75 s. 3.

### 69.06 SERVICE PENSION.

**HISTORY.** 1897 c. 55 s. 1; R.L. 1905 s. 1655; 1907 c. 331 s. 1; G.S. 1913 s. 3347; 1917 c. 514 s. 1; G.S. 1923 s. 3728; M.S. 1927 s. 3728; 1933 c. 124 s. 1; 1945 c. 560 s. 1.

**WHEN GRANTED.** See 1916 OAG 286, under section 69.04 above.

**TO WHOM APPLICABLE.** The statute contemplates benefits for the members of the fire department and its effect cannot be narrowed by the articles of incorporation of the local organization. All members are entitled to benefits whether or not they are exposed to the hazards peculiar to those required to work in

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the presence of fire dangers. State ex rel v St. Paul F.D. Relief Ass'n, 175 M 600, 222 NW 283.

The 20 years' active duty required for the payment of a pension need not be 20 consecutive years. There are two qualifications that must be met by applicants: 20 years' service and the attaining of 50 years of age. 1936 OAG 29. OAG 1/27-1945 (198b-1).

Pension and retirement acts are remedial in nature and are entitled to a liberal construction which will meet the essential legislative purpose. That portion of Laws 1915, Chapter 199, Section 9, reading: "return to the work of teaching in said public schools," is construed to mean a return to the work of teaching in the public schools of the state of Minnesota. Mattson v Flynn, 216 M 361, 13 NW(2d) 11.

Under statute providing a service pension for a city fireman becoming 50 years old "and" who had done 20 years of active duty, and relief association's by-laws to same effect, a fireman who had served less than seven years when he became disabled and was retired as third class pensioner was not entitled to service pension on becoming 50 years old; the word "and" denoting that both conditions must concur. Stevens v Mpls. Fire Relief Ass'n, 219 M 276, 17 NW(2nd) 643.

### **69.07 FIREMEN'S RELIEF ASSOCIATION IN CERTAIN CITIES.**

HISTORY. 1935 c. 153 s. 1; M. Supp. s. 3728-1; 1939 c. 434 s. 1.

### **69.08 ADDITIONAL RETIREMENT PENSION; RESTRICTIONS.**

HISTORY. 1935 c. 153 s. 2; M. Supp. s. 3728-2; 1939 c. 434 s. 2.

### **69.09 DEDUCTIONS FROM SALARIES.**

HISTORY. 1939 c. 434 s. 3; M. Supp. s. 3728-3; 1943 c. 360 s. 1.

### **69.10 ANNUAL REPORT OF SECRETARY FILED WITH CITY CLERK.**

HISTORY. 1939 c. 434 s. 4; M. Supp. s. 3728-4; 1943 c. 74 s. 1.

### **69.11 PENSIONS NOT SUBJECT TO GARNISHMENT.**

HISTORY. 1939 c. 434 s. 5; M. Supp. s. 3728-5.

### **69.12 CEASING TO BE A MEMBER OF ASSOCIATION, DEDUCTIONS PAID.**

HISTORY. 1939 c. 434 s. 6; M. Supp. s. 3728-6.

### **69.13 BENEFITS NOT PAID TO PENSIONERS.**

HISTORY. 1939 c. 434 s. 7; M. Supp. s. 3728-7. Laws 1943, Chapter 397, is a local law of limited application.

### **69.22 MEMBERSHIP IN POLICE OR FIRE DEPARTMENT RELIEF ASSOCIATIONS.**

HISTORY. 1919 c. 68 s. 1; G.S. 1923 s. 3745; M.S. 1927 s. 3745.

### **69.23 WHO ENTITLED TO RELIEF.**

HISTORY. 1919 c. 68 s. 2; G.S. 1923 s. 3746; M.S. 1927 s. 3746.

### **69.24 DUAL MEMBERSHIP PROHIBITED.**

HISTORY. 1919 c. 68 s. 3; G.S. 1923 s. 3747; M.S. 1927 s. 3747.

### **69.25 FIREMEN'S RELIEF ASSOCIATIONS IN CITIES OF FIRST CLASS.**

HISTORY. 1933 c. 177 s. 1; M. Supp. s. 3750-1.

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When relator became a widow, Laws 1933, Chapter 177 (sections 69.25 to 69.53), was in force, and thereunder she could not qualify as a pensioner of her husband because she had not been legally married to him three years before he became a pensioner. The reason for this change rests on the legislature which is the judge of policy. State ex rel v Minneapolis Ass'n, 205 M 56, 284 NW 884, 205 M 204, 285 NW 479.

### 69.26 RELIEF ASSOCIATIONS SELF GOVERNING.

HISTORY. 1933 s. 177 s. 2; M. Supp. s. 3750-2.

### 69.27 MEMBERS.

HISTORY. 1933 c. 177 s. 3; M. Supp. s. 3750-3.

### 69.28 ELIGIBILITY.

HISTORY. 1933 c. 177 s. 4; M. Supp. s. 3750-4; 1937 c. 155 s. 1; 1941 c. 258 s. 1.

### 69.29 UNFIT PERSONS REJECTED.

HISTORY. 1933 c. 177 s. 5; M. Supp. s. 3750-5.

### 69.30 OFFICERS; DUTIES; BONDS.

HISTORY. 1933 c. 177 s. 6; M. Supp. s. 3750-6.

### 69.31 REPORTS OF OFFICERS.

HISTORY. 1933 c. 177 s. 7; M. Supp. s. 3750-7.

### 69.32 CITY CLERK TO FILE REPORT WITH COMMISSIONER.

HISTORY. 1933 c. 177 s. 8; M. Supp. s. 3750-8.

### 69.33 NAMES OF ASSOCIATIONS REPORTED TO INSURANCE COMPANIES.

HISTORY. 1933 c. 177 s. 9; M. Supp. s. 3750-9.

### 69.34 STATE AUDITOR TO DISTRIBUTE MONEYS.

HISTORY. 1933 c. 177 s. 10; M. Supp. s. 3750-10.

COMMISSIONER OF ADMINISTRATION CANNOT REDUCE ALLOTMENT. Since the duty imposed upon the auditor is mandatory, and in the absence of language clearly evidencing the intent of the legislature to give the commissioner of administration authority to reduce an expenditure to be made by the auditor under this section, the power given the commissioner to reduce allotments of funds by Laws 1939, Chapter 431, Art. 2, Sec. 16, is not applicable to this expenditure. 1940 OAG 279.

### 69.35 PAYMENT TO BE MADE FROM GENERAL REVENUE FUND.

HISTORY. 1933 c. 177 s. 11; M. Supp. s. 3750-11.

### 69.36 FIREMEN'S RELIEF ASSOCIATION IN CERTAIN CITIES; TAX LEVY.

HISTORY. 1933 c. 177 s. 12; M. Supp. s. 3750-12; 1935 c. 87; 1937 c. 279 s. 1; 1943 c. 316 s. 1.

### 69.37 COUNTY TREASURER TO PAY OVER MONEYS COLLECTED.

HISTORY. 1933 c. 177 s. 13; M. Supp. s. 3750-13.

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## 69.38 ASSOCIATIONS TO MANAGE FUNDS.

HISTORY. 1933 c. 177 s. 14; M. Supp. s. 3750-14.

## 69.39 SEPARATE FUND.

HISTORY. 1933 c. 177 s. 15; M. Supp. s. 3750-15.

## 69.40 PAYMENTS.

HISTORY. 1933 c. 177 s. 16; M. Supp. s. 3750-16.

## 69.41 ASSOCIATIONS MAY DEFINE SICKNESS AND DISABILITY.

HISTORY. 1933 c. 177 s. 17; M. Supp. s. 3750-17.

## 69.42 PENSIONS, WHEN REDUCED.

HISTORY. 1933 c. 177 s. 18; M. Supp. s. 3750-18.

## 69.43 PERSONS ENTITLED TO RELIEF.

HISTORY. 1933 s. 177 s. 19; M. Supp. s. 3750-19.

The tender by a city fire department's relief association to pensioner each month of a check-in full payment of pension due him and pensioner's acceptance and cashing of checks with endorsement showing receipt of proceeds as such payment constituted accord and satisfaction of pensioner's claim for pension and a discharge of association from such claim. *Stevens v Mpls. Fire Relief Ass'n*, 219 M 276, 17 NW(2d) 643.

## 69.44 AMOUNT OF PAYMENTS.

HISTORY. 1933 c. 177 s. 20; M. Supp. s. 3750-20.

## 69.45 RETIREMENT PAY.

HISTORY. 1933 c. 177 s. 21; M. Supp. s. 3750-21.

One who had served 20 years in the city fire department including period of army service, was 53 years of age, and had been a regular dues-paying member in good standing of relief association both before and after army service, was entitled to a pension, although he did not resume employment in the fire department until several years after discharge from the army. *Montgomery v Minneapolis Fire Dept. Relief Ass'n*, 218 M 27, 15 NW(2d) 122.

## 69.46 MEMBER MAY BE ON DEFERRED PENSION LIST.

HISTORY. 1933 c. 177 s. 22; M. Supp. s. 3750-22.

## 69.47 WAR SERVICE INCLUDED IN PERIOD OF SERVICE.

HISTORY. 1933 c. 177 s. 23; M. Supp. s. 3750-23; 1941 c. 258 s. 2; 1945 c. 286 s. 1.

## 69.48 PENSIONS TO WIDOWS AND CHILDREN OF MEMBERS.

HISTORY. 1933 c. 177 s. 24; M. Supp. s. 3750-24.

WHEN RIGHT ACCRUES. The wife of a pensioner does not acquire a vested right under any statute relating to firemen's pensions during the husband's life. Her right accrues upon his death and is to be determined by the law in force at that time. *Krake v Minneapolis F.D. Relief Ass'n*, 205 M 54, 284 NW 884; *State ex rel v Minneapolis F.D. Relief Ass'n*, 205 M 204, 285 NW 479.

**69.49 BOARD OF EXAMINERS.**

HISTORY. 1933 c. 177 s. 25; M. Supp. s. 3750-25.

**69.50 PUBLIC EXAMINER TO EXAMINE BOOKS.**

HISTORY. 1933 c. 177 s. 26; M. Supp. s. 3750-26.

**69.51 PAYMENTS EXEMPT FROM GARNISHMENT.**

HISTORY. 1933 c. 177 s. 27; M. Supp. s. 3750-27.

**69.52 WORKMEN'S COMPENSATION ACT NOT AFFECTED.**

HISTORY. 1933 c. 177 s. 28; M. Supp. s. 3750-28.

**69.53 ACTS REPEALED, EXCEPTIONS.**

HISTORY. 1933 c. 177 s. 29; M. Supp. s. 3750-29.

**69.54 SURCHARGE ON PREMIUMS TO RESTORE DEFICIENCY IN SPECIAL FUND.**

HISTORY. Ex. 1934 c. 53 s. 1; M. Supp. s. 3750-31; 1935 c. 86 s. 1; 1937 c. 361 s. 1.

SCOPE. Premiums paid by a county on a fire insurance policy covering its property are subject to surcharge. 1934 OAG 539.

In so far as a charter amendment conflicts with a general statutory provision, the charter provision is superseded by the statute. 1934 OAG 67, Aug. 22, 1934 (335d).

**69.55 WARRANT ON STATE TREASURER.**

HISTORY. Ex. 1934 c. 53 s. 2; M. Supp. s. 3750-32; 1935 c. 86 s. 2.

**69.56 STATE TREASURER TO PAY WARRANT.**

HISTORY. Ex. 1934 c. 53 s. 3; M. Supp. s. 3750-33; 1935 c. 86 s. 3.

**69.57 EMERGENCY.**

HISTORY. Ex. 1934 c. 53 s. 4; M. Supp. s. 3750-34.

**69.58 INSURING IN UNAUTHORIZED COMPANIES; DUES; STATEMENT.**

HISTORY. Ex. 1934 c. 56 s. 1; M. Supp. s. 3750-35; 1937 c. 258 s. 1.

**69.59 COLLECTION OF PERCENTAGE ON PREMIUM; RECOVERY.**

HISTORY. Ex. 1934 c. 56 s. 2; M. Supp. s. 3750-36; 1937 c. 258 s. 2.

**69.60 PROCEEDS, DISPOSAL OF.**

HISTORY. Ex. 1934 c. 56 s. 3; M. Supp. s. 3750-37; 1937 c. 258 s. 3.

**69.61 EXEMPT PROPERTY.**

HISTORY. Ex. 1934 c. 56 s. 4; M. Supp. s. 3750-38.

**69.62 PENSION PAYMENTS EXEMPT FROM GARNISHMENT.**

HISTORY. 1923 c. 204; G.S. 1923 s. 3751; M.S. 1927 s. 3751.