

CHAPTER 423

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CITIES FIRST CLASS

423.075 COMPULSORY RETIREMENT OF CERTAIN EMPLOYEES OF POLICE AND FIRE DEPARTMENTS.

Subdivision 1. Notwithstanding any contrary provisions of sections 197.455 to 197.48, every employee, officer, or person on the payroll of any fire or police department in any city of the first class who is a member of any tax aided pension, relief, or retirement fund established and maintained by authority of laws of this state, shall retire upon reaching the age of 65 years.

Subd. 2. [Repealed, 1981 c 224 s 276]

History: 1939 c 136 s 1; 1941 c 426; 1963 c 802 s 1; 1977 c 429 s 63; 1981 c 224 s 194 (1442-40d)

423.076 RETIREMENT; POLICE AND FIRE DEPARTMENTS.

A compulsory retirement age of not less than 65 years may be established for persons on the payroll of a police or fire department which does not come within the provisions of section 423.075 without being a violation of section 181.81 or section 363.02, subdivision 6.

History: 1978 c 649 s 7; 1979 c 40 s 11; 1979 c 50 s 56

423.08-423.11 [Repealed, 1961 c 561 s 17]

423.12-423.203 [Repealed, 1955 c 105 s 15]

423.21 [Repealed, 1976 c 44 s 70]

423.22 [Repealed, 1978 c 562 s 34]

423.23 [Repealed, 1978 c 562 s 34]

423.24 [Repealed, 1978 c 562 s 34]

423.25 [Repealed, 1978 c 562 s 34]

423.26 [Repealed, 1978 c 562 s 34]

423.27 [Repealed, 1978 c 562 s 34]

423.28 [Repealed, 1978 c 562 s 34]

423.29 [Repealed, 1978 c 562 s 34]

423.30 [Repealed, 1978 c 562 s 34]

423.31 [Repealed, 1978 c 562 s 34]

423.32 [Repealed, 1978 c 562 s 34]

423.33 [Repealed, 1978 c 562 s 34]

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423.35 [Repealed, 1978 c 562 s 34]

423.36 [Repealed, 1978 c 562 s 34]

CITIES THIRD CLASS

423.37 POLICE DEPARTMENT MAY FORM RELIEF ASSOCIATION IN CERTAIN CITIES.

In each city of the third class the members of its police department may organize a policemen's relief association, or maintain any policemen's relief association existing therein on April 29, 1947. This association shall create, maintain, and

administer a policemen's pension fund for the benefit of its members, the surviving spouses and children of its members, and the beneficiaries of any policemen's pension or benefit fund in operation on April 29, 1947. All such associations now existing as such corporations, or hereafter incorporated under the laws of this state, shall have perpetual existence. Laws 1947, Chapter 625, shall not apply to any associations in existence on April 29, 1947; but each such association may elect to come under its provisions by the adoption of a resolution of the members of said association signifying its intention to do so, by a majority vote of all members then entitled to vote and voting, at any annual meeting of said association, or at any special meeting duly called for that purpose, and upon the filing of a copy of said resolution certified by the proper officers, with the secretary of state, and the filing and recording in the office of the county recorder of the county in which such association is located. Upon the adoption of such a resolution, Laws 1947, Chapter 625, shall apply to all accepting associations as fully as though such associations had been formed hereunder, notwithstanding the provisions of any constitution, bylaws, charter provision, or ordinance.

History: 1943 c 521 s 1; 1947 c 625 s 1; 1976 c 181 s 2; 1978 c 562 s 14

423.371 ORGANIZATION, OPERATION.

Subdivision 1. **Articles, bylaws.** Each such relief association shall be organized, operated, and maintained in accordance with its own articles of incorporation and bylaws, by policemen, as hereinafter defined, who are members of said police department. Each association shall have the power to regulate its own management and its own affairs, and all additional corporate powers which may be necessary or useful; subject to the laws of this state pertaining to corporations, not inconsistent herewith.

Subd. 2. **Amendments.** All associations organized or duly coming under this act, shall have the power to amend, from time to time, their articles of incorporation or their bylaws, and by the amendment of their bylaws from time to time, may, subject to the minimum and maximum pensions hereinafter provided, increase or decrease the disability and service pensions already being paid, or thereafter to be paid, to disability and service pensioners, their surviving spouses and children, and the surviving spouses and children of deceased members, so as to maintain as nearly as possible a proper relationship between the prevailing pay of active members of the association and the pensions being paid, or to be paid, to disability and service pensioners, and the surviving spouses and children of deceased pensioners and members, or to maintain the reserves accumulated in the special fund of the association, on a sound and safe basis, and the over-all solvency of the association. Pensions being paid by such associations to disability and service pensioners, and the surviving spouses and children of deceased pensioners and members, at the time this provision shall go into effect, and become law, shall not be reduced by any such amendment of the bylaws. The service pensions being paid retired members, and to be paid existing members, shall in no event be reduced to an amount less than the amount provided for disabled members now receiving disability pensions, or who may hereafter be entitled to receive disability pensions, and further provided that no reduction shall be made in the pensions being paid to either service or disability pensioners who retire from the force, following their retirement, unless a pro rata reduction is likewise made in the pensions to be paid members for service and disability pensions who may thereafter be entitled thereto.

History: 1943 c 521 s 2; 1947 c 625 s 2; 1953 c 35 s 1; 1978 c 562 s 15

423.372 POLICEMAN, DEFINED; RIGHTS.

A policeman under Laws 1947, Chapter 625, is a duly appointed policeman, policewoman, or police matron, who is regularly entered on the payroll of the police department of such city, serving on active duty therein, after having completed any probationary period required under the laws or ordinances of such city. Probationers in the police department, substitutes and persons employed irregularly from time to time, and elective officials of such department, shall not be deemed to be included under Laws 1947, Chapter 625. All persons who are members of the policemen's relief associations of such cities, on April 29, 1947, whether their status is embraced within the definition of a policeman herein contained or otherwise, shall have the right to continue as members of their respective associations and be entitled to all benefits pertaining thereto, and any member included under the definition of policeman herein provided shall have the right to retain his membership on promotion or appointment to other positions to which such policeman herein may be subject. Laws 1947, Chapter 625, shall not affect any pensions or other benefits which have been allowed or which are being paid by any such relief association under or in accordance with any prior act or acts, on April 29, 1947. Payment of such pensions and benefits shall be continued by the respective associations in accordance with their articles of incorporation and bylaws, and shall be subject to all of the provisions thereof, existing on April 29, 1947, or as thereafter duly repealed or amended.

Any person who is employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act shall not be included as a member of the relief association from and after March 30, 1978 unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the relief association to meet the minimum vesting requirements for a deferred service pension, or the city agrees in writing to make the total required employer contributions on account of that individual from revenue sources other than funds provided under the federal comprehensive employment and training act, or the person agrees in writing to make the required employer contributions in addition to the member contribution.

History: 1943 c 521 s 3; 1947 c 625 s 3; 1978 c 720 s 14

423.373 ACTING POLICEMEN TO BECOME MEMBERS.

Every policeman as herein defined shall automatically become a member of the policemen's relief association of any such city upon the completion of any probationary period required under the laws or ordinances of such city and his appointment as a regular policeman of such city as defined in section 423.372. He shall thereupon become subject to the articles of incorporation and bylaws of such association, and shall be entitled to all of the privileges and benefits therein provided for members of the policemen's relief association of such city.

History: 1943 c 521 s 4

423.374 OFFICERS OF ASSOCIATION.

The officers of the relief association shall be a president, one or more vice-presidents, a secretary and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations. The affairs of each association shall be managed by a board of directors elected in the manner prescribed by the articles of incorporation of the association.

The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in such amounts as the association from time to time may determine. Each relief associa-

tion shall and is hereby authorized to pay the premiums on such bonds from its special fund.

History: 1943 c 521 s 5

423.375 SECRETARY AND TREASURER TO MAKE ANNUAL REPORT.

The secretary and treasurer of every association, prior to the first day of February in each year, shall jointly prepare and sign with the approval of the association's board of directors, a detailed and itemized report of all receipts and expenditures in the association's special fund for the preceding calendar year, showing the sources of said receipts and to whom and for what purpose the money has been paid and expended, and the balance of the fund. They shall file duplicate original copies thereof with the clerk or city recorder of the city in which the association is located, and with the mayor and the treasurer thereof. No money shall be paid to a relief association by the city in which the association is located until said report is so filed.

History: 1943 c 521 s 6

423.376 TAX LEVY.

Subdivision 1. **Rate.** The city council or other governing body of each such city wherein such relief association is located shall each year, at the time the tax levies for the support of the city are made, and in addition thereto, levy a tax for the benefit of the special relief fund of such policemen's relief association of one-half mill on all taxable property within such city, until the balance in said special fund of such policemen's relief association in any such city has reached the sum of \$150,000 and thereafter said levy may be reduced by said city to a sum sufficient to maintain the balance in said special fund at not less than \$150,000. In addition, the city may levy an emergency levy of one-sixth mill or fraction thereof (in addition to the one-half mill hereinbefore provided) whenever the balance in said special fund is less than \$50,000.

Subd. 2. **Collection.** The tax so levied shall be transmitted with other tax levies to the auditor of the county in which such city is located and by said county shall be collected and payment thereof enforced, when and in like manner as state and county taxes are paid.

Subd. 3. **Additional.** This tax is in addition to all other taxes which the city may levy upon the aggregate valuation of all taxable property within the city, and is in addition to the amount of tax the city may levy for general purposes. The auditor of the county in which city is located, in extending or reducing tax levies shall not consider this tax as a part of the general tax levy for city purposes and shall not include it in any limitations as provided in section 275.11.

Subd. 4. **Payment.** As soon as practicable after the first day of June and the first day of November, in each year, the county treasurer of each such county shall pay to the treasurer of each such relief association within said county the amount of such tax then collected and payable to said association, together with all interest and penalties so collected, and all interest collected thereon between the time of collection and the time of payment to such relief association. And the city treasurer of such city, in the event that such tax or any part thereof is paid to him, shall likewise pay the same to the treasurer of the policemen's relief association of such city, as soon as the same has been collected, together with all interest and penalties thereon.

History: 1943 c 521 s 7; 1947 c 625 s 4; 1949 c 496 s 1; 1951 c 299 s 1; 1953 c 35 s 2; 1959 c 175 s 1; 1973 c 773 s 1

423.377 SALARY DEDUCTIONS.

In addition, and only if such tax is levied, the city treasurer, finance commissioner or other officer charged with the responsibility of the city's finances, shall, each month, deduct from the salary of each policeman of such city subject to sections 423.37 to 423.391, four percent of the prevailing pay of all such policemen of such city, and transfer the total thereof to the treasurer of the special fund of the policemen's relief association, who shall credit said total to the special fund of such association and to the credit of each individual policeman from whose pay said deductions were so made.

If a policeman in any such city is separated from the service due to resignation or some reason not involving malfeasance, nonfeasance, moral turpitude, or if his separation from such service is caused by injury, death or other disability, under such circumstances that no pension benefits are payable to him or his surviving spouse or children, the treasurer of the special fund shall return to such policeman, or in case of his death, to his heirs, executors or administrators, all of the amounts so deducted from his pay without interest, but less the amount of any disability or other benefits theretofore paid to such policeman.

History: 1943 c 521 s 8; 1947 c 625 s 5; 1953 c 35 s 3; 1959 c 175 s 2; 1978 c 562 s 16

423.378 ASSOCIATION TO HAVE MANAGEMENT OF FUNDS.

Each such relief association shall have full and permanent charge of, and the responsibility for the proper management and control of all funds that may come into its possession, and particularly funds derived from the following sources:

(a) Funds derived from the tax levies by the city in which such relief association is located, and interest from the investment thereof.

(b) Funds derived from deductions made from the basic pay of members of such relief association.

(c) Funds derived from private sources such as gifts, charges, rents, entertainments, dues paid by members, and from other sources.

History: 1943 c 521 s 9; 1947 c 625 s 6

423.379 PLACED IN SEPARATE FUNDS.

The money received from the various sources shall be kept in two separate and distinct funds, one to be designated as the association special fund, and the other as its general fund. All money received from the city in which the relief association is located, including wage deductions from the basic pay of policemen, shall be deposited in the special fund and shall be expended only for the purposes hereinafter authorized. All money received from other sources shall be deposited in the general fund, and may be expended for any purpose deemed proper by such association.

History: 1943 c 521 s 10; 1947 c 625 s 7

423.38 PURPOSES FOR WHICH EXPENDITURES MAY BE MADE.

All moneys received by a relief association and deposited by it in its special fund shall be appropriated and disbursed by the association only for the following purposes:

(a) For the relief of sick, injured and disabled members of the association, their surviving spouses and orphans.

(b) For the payment of disability and service pensions to members of the relief association.

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

History: 1943 c 521 s 11; 1978 c 562 s 17; 1978 c 690 s 3; 1981 c 224 s 195

423.381 RELIEF BENEFITS, ENTITLEMENT.

Each relief association shall in its bylaws define the sickness and disability entitling its members to relief, and specify the amounts thereof, and also specify the amounts to be paid to its disability and service pensioners, and to surviving spouses and children of deceased members, and fix the age limit of children to which pensions may be paid, subject to, and in accordance with, the provisions of Laws 1947, Chapter 625.

History: 1943 c 521 s 12; 1947 c 625 s 8; 1978 c 562 s 18

423.382 PAYMENTS DURING DISABILITY.

A member of such association who, by reason of sickness or accident, becomes disabled from performing the duties of a policeman in the police department of any such city, shall be entitled to receive from the association during disability, such disability pension as the bylaws of the association may provide, which pension shall in no event, however, be less than \$75 per month. No disability pension shall be paid or allowed by such association unless notice of the disability and application for pension on account thereof, shall be made by or on behalf of the disabled member to the secretary of the association within 90 days after such disability.

History: 1943 c 521 s 13

423.383 TIME LIMIT.

A member of any such relief association entitled to disability pension, as herein defined, shall receive the same from such association for such periods of time, at such times, and in such amounts, as the bylaws of the association shall provide, but in no event shall such disability pension be less than \$75 per month.

History: 1943 c 521 s 14

423.384 SERVICE PENSIONS.

A member of any such association as herein defined, who has completed a period, or periods of service, as a policeman in the police department of any such city, equal to 20 years or more, shall, after he has arrived at the age of 50 years or more, and has retired from the payroll of the police department of such city, be entitled to receive from the association, a service pension in such amount as shall be fixed by the bylaws of the association, which pension shall in no event be less than \$75 per month, nor more than one-half of the prevailing pay of such policeman during the major portion of the year immediately preceding his retirement, and thereafter the maximum pension of such policeman shall not exceed one-half of the prevailing pay of active members of the association of equivalent rank, or the position most closely analogous thereto, and shall be payable monthly during the term of his natural life, subject to the bylaws of such association, provided however that those policemen who are members of any such association at the time of the passage of this act, shall be entitled to a minimum service pension equal to one-half of the monthly based pay of such policeman at the time of the passage of this act. All leaves of absence of more than 90 days except such as are granted to a member because of his disability due to sickness or accident, shall be excluded in computing the period of service. No deductions shall be made for a leave of absence granted to a member to enable him to accept an appointive position in said police department

not subject to the provisions of sections 423.37 to 423.391. No member shall be entitled to draw both a disability and a service pension.

History: 1943 c 521 s 15; 1947 c 625 s 9; 1949 c 496 s 2; 1953 c 35 s 4

423.385 RETIREMENT AFTER 20 YEARS OF SERVICE.

A member of such association as herein defined, who has completed a period, or periods of service, as a policeman in the police department of any such city equal to 20 years or more, but has not reached the age of 50 years, shall have the right to retire from the department without forfeiting his right to a service pension. He shall, upon application, be placed on the deferred pension roll of the association, and, after he has reached the age of 50 years, the association shall, upon application therefor, pay his pension from the date the application is approved by the association.

History: 1943 c 521 s 16

423.386 SERVICE IN ARMED FORCES TO BE INCLUDED.

In determining the years of service of any such policeman, no deduction shall be made for the period any such policeman shall have been a member of the armed forces of the United States subsequent to his entry into the service of the police department, who left the service of such police department to enter the armed forces of the United States, providing such policeman is honorably discharged from the armed forces of the United States, and resumes his duties as such within 60 days after such discharge from the armed services of the United States, or within such further period as may be granted to him by the board of directors of such association within which to resume said duties.

History: 1943 c 521 s 17

423.387 BENEFITS; PENSIONERS, SURVIVORS.

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

(1) To such surviving spouse a pension of not less than \$25 per month, as the bylaws of such association shall provide, for the surviving spouse's natural life; provided, if the surviving spouse shall remarry, then such pension shall cease and terminate as of the date of the surviving spouse's remarriage.

(2) To such child or children, if the surviving spouse of the member is living and has not remarried, a pension of not to exceed \$25 per month for each child up to the time each child reaches the age of not less than 16, and not to exceed 18 years of age, which pension and age shall be fixed by the bylaws of such association. Provided, the total pension hereunder for the surviving spouse and children of said deceased member shall not exceed the sum of one-half of the prevailing monthly pay of such decedent during the major portion of the year immediately preceding the termination of his services as a policeman in the police department of such municipality, and thereafter the maximum pension of such surviving spouse and children shall not exceed one-half of the prevailing pay of active members of the association of equivalent rank to the position held by such decedent for the major portion of the year immediately preceding the termination of his services as a policeman, or the position most closely analogous thereto.

(3) A child or children of a deceased member receiving a pension or pensions hereunder shall, after the death or remarriage of the surviving spouse of the member,

be entitled to receive a pension or pensions in such amount or amounts as may be fixed by the bylaws of such association, until they reach the age of not less than 16 and not more than 18 years, as the bylaws of such association may provide; but the total amount of such pension or pensions hereunder for any child or children shall not exceed the sum of one-half of the prevailing pay of such decedent during the major portion of the year immediately preceding the termination of his services as a policeman in the police department of such municipality, and thereafter the maximum pension of such child or children shall not exceed one-half of the prevailing pay of active members of the association of equivalent rank to the position held by such decedent for the major portion of the year immediately preceding the termination of his services as a policeman, or the position most closely analogous thereto. The board of directors of such association shall determine to whom and for what purposes such pension or pensions shall be paid for the benefit of such child or children.

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

(b) "Surviving child" means any child born the issue of the lawful marriage of a service, disability or deferred pensioner or of a deceased active member.

History: 1943 c 521 s 18; 1947 c 625 s 10; 1953 c 35 s 5; 1978 c 562 s 19; 1983 c 7 s 10

423.388 BOARD OF EXAMINERS.

The relief association shall establish a board of examiners who shall, as and when requested by the association's board of directors, investigate and make report on all applications for disability pension and make recommendations as to the allowance or disallowance thereof; investigate and make report on all disability pensioners, and make recommendations as to the continuance or discontinuance thereof; and investigate and report on all applications for service pensions. This board shall consist of a competent physician selected by the association, and at least three members of the relief association on active duty with the police department, and a majority vote of the members of the relief association on said board shall constitute its recommendation to the board of directors.

History: 1943 c 521 s 19

423.389 [Repealed, 1983 c 38 s 1]

423.39 FUNDS EXEMPT FROM EXECUTION.

All payments made or to be made by any such policemen's relief association under any of the provisions of Laws 1947, Chapter 625, shall be totally exempt from garnishment, execution, or other legal process, except as provided in section 518.611, and no persons entitled to such payment shall have the right to assign the same, nor shall the association have authority to recognize any assignment, or to pay any sum

on account thereof; and any attempt to transfer any such right or claim, or any part thereof, shall be absolutely void.

History: 1943 c 521 s 21; 1947 c 625 s 11; 1984 c 547 s 10

423.391 WORKERS' COMPENSATION ACT NOT AFFECTED.

Laws 1947, Chapter 625, 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: 1943 c 521 s 22; 1947 c 625 s 12; 1975 c 359 s 23

423.392 APPLICATION.

The provisions of section 423.37 shall apply to and bind any city of the third class which by a resolution of its governing body, adopted by a majority of the members thereof shall choose to be bound by it, and such city may thereafter continue to be bound by it notwithstanding a subsequent change in the classification of the city; but section 423.37 does not apply to any policemen's relief association in existence April 29, 1947 unless the association elects to come under its provisions as herein provided.

History: 1947 c 625 s 13; 1951 c 60 s 1; 1971 c 25 s 80

CITIES FOURTH CLASS

423.41 POLICEMEN'S RELIEF ASSOCIATION; CITIES EMPLOYING FIVE OR MORE POLICEMEN.

The police department of each city of the fourth class employing five or more regular and fully paid policemen when authorized by an ordinance approved or adopted by the unanimous vote of the governing body of said city may maintain a policemen's relief association which shall be duly incorporated under the laws of this state. All such associations now existing as such corporations, or hereafter incorporated under the laws of this state, shall have perpetual existence.

History: 1947 c 624 s 1

423.42 REGULATION OF MANAGEMENT.

Each such relief association shall be organized, operated, and maintained in accordance with its own articles of incorporation and bylaws, by policemen, as hereinafter defined, who are members of said police department. Each association shall have the power to regulate its own management and its own affairs, and all additional corporate powers which may be necessary or useful; subject, however, to the regulations and restrictions of sections 423.41 to 423.62 and other laws of this state pertaining to corporations; not inconsistent herewith.

History: 1947 c 624 s 2

423.43 POLICEMAN DEFINED; PRESENT RELIEF ASSOCIATION; PRESENT BENEFIT RIGHTS; ACCEPTANCE.

A policeman under sections 423.41 to 423.62 is a duly appointed policeman, policewoman, or police matron, who is regularly entered on the payroll of the police department of such city, serving on active duty therein, after having completed any probationary period required under the laws or ordinances of such city. Probationers in the police department, substitutes and persons employed irregularly from time to time, and elective officials of such department, shall not be deemed to be included

under sections 423.41 to 423.62. Any person who is employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act shall not be included as a member of the relief association from and after March 30, 1978 unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the relief association to meet the minimum vesting requirements for a deferred service pension, or the city agrees in writing to make the total required employer contributions on account of that individual from revenue sources other than funds provided under the federal comprehensive employment and training act, or the person agrees in writing to make the required employer contribution in addition to the member contribution.

All persons who are members of the policemen's relief associations of such cities, at the time of the passage of Laws 1947, Chapter 624, whether their status is embraced within the definition of a policeman herein contained or otherwise, shall have the right to continue as members of their respective associations and be entitled to all benefits pertaining thereto, and any member included under the definition of policeman herein provided shall have the right to retain his membership on promotion or appointment to other positions to which such policemen herein may be subject.

Sections 423.41 to 423.62 shall not affect any pensions or other benefits which have been allowed or which are being paid by any such relief association under or in accordance with any prior act or acts, at the time Laws 1947, Chapter 624, becomes effective. Payment of such pensions and benefits shall be continued by the respective associations in accordance with their articles of incorporation and bylaws, and shall be subject to all of the provisions thereof, existing at the time of the passage of Laws 1947, Chapter 624, but each such association may elect to come under the provisions of this act by the adoption of a resolution of the members of said association signifying its intention to do so, by a majority vote of all members then entitled to vote and voting, at any annual meeting of said association, or at any special meeting duly called for that purpose, and upon the filing of a copy of said resolution certified by the proper officers, with the secretary of state, and the filing and recording in the office of the county recorder of the county in which such association is located. Upon the adoption of such a resolution, sections 423.41 to 423.62 shall apply to all accepting associations as fully as though such associations had been formed hereunder, notwithstanding the provisions of any constitution, bylaws, charter provision or ordinance.

History: 1947 c 624 s 3; 1976 c 181 s 2; 1978 c 720 s 15

423.44 MEMBERSHIP AUTOMATIC.

Every policeman as herein defined shall automatically become a member of the policemen's relief association of any such city upon the completion of any probationary period required under the laws or ordinances of such city and his appointment as a regular policeman of such city as defined in section 423.43. He shall thereupon become subject to the articles of incorporation and bylaws of such association, and shall be entitled to all of the privileges and benefits therein provided for members of the policemen's relief association of such city.

History: 1947 c 624 s 4

423.45 OFFICERS; DIRECTORS; BOND.

The officers of the relief association shall be a president, one or more vice-presidents, a secretary and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations. The affairs of each

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association shall be managed by a board of directors elected in the manner prescribed by the articles of incorporation of the association.

The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in such amounts as the association from time to time may determine. Each relief association shall and is hereby authorized to pay the premiums on such bonds from its special fund.

History: 1947 c 624 s 5

423.46 ANNUAL REPORT; FILING.

The secretary and treasurer of every association, prior to the first day of February in each year, shall jointly prepare and sign with the approval of the association's board of directors, a detailed and itemized report of all receipts and expenditures in the association's special fund for the preceding calendar year, showing the sources of said receipts and to whom and for what purpose the money has been paid and expended, and the balance of the fund. They shall file duplicate original copies thereof with the clerk or city recorder of the city in which the association is located, and with the mayor and the treasurer thereof. No money shall be paid to a relief association by the city in which the association is located until said report is so filed.

History: 1947 c 624 s 6

423.47 TAX LEVY.

The city council or other governing body of each such city wherein such a relief association is located may each year, at the time the tax levies for the support of the city are made, and in addition thereto, levy a tax for the benefit of the special relief fund of such policemen's relief association of one-half of one mill on all taxable property within such city, until the balance in said special fund of such policemen's relief association in any such city has reached the sum of \$150,000, and thereafter said levy may be reduced by such city to a sum sufficient to maintain the balance in said special fund at not less than \$150,000.

The tax so levied shall be transmitted with other tax levies to the auditor of the county in which such city is located and by said county shall be collected and payment thereof enforced, when and in like manner as state and county taxes are paid.

As soon as practicable after the first day of June and the first day of November in each year, the county treasurer of each such county shall pay to the treasurer of each such relief association within said county the amount of such tax then collected and payable to said association, together with all interest and penalties so collected, and all interest collected thereon between the time of collection and the time of payment to such relief association. And the city treasurer of such city, in the event that such tax or any part thereof is paid to him, shall likewise pay the same to the treasurer of the policemen's relief association of such city, as soon as the same has been collected, together with all interest and penalties thereon.

History: 1947 c 624 s 7; 1957 c 38; 1959 c 82 s 1; 1973 c 773 s 1

423.48 CONTRIBUTION BY MEMBERS; DEDUCTION BY TREASURER; SEPARATION OR DEATH.

In addition, and only if such tax is levied, the city treasurer, finance commissioner, or other officer charged with the responsibility of the city's finances, shall, each month, deduct from the salary of each policeman of such city subject to the

provisions of sections 423.41 to 423.62, four percent of the basic pay of all such policemen of such city, and transfer the total thereof to the treasurer of the special fund of the policemen's relief association, who shall credit said total to the special fund of such association and to the credit of each individual policeman from whose pay said deductions were so made.

If a policeman in any such city is separated from the service due to resignation or some reason not involving malfeasance, nonfeasance, moral turpitude, or if his separation from such service is caused by injury, death, or other disability, under such circumstances that no pension benefits are payable to him or his surviving spouse or children, the treasurer of the special fund shall return to such policeman, or in case of his death, to his heirs, executors, or administrators, all of the amounts so deducted from his base pay without interest, but less the amount of any disability or other benefits theretofore paid to such policeman.

History: 1947 c 624 s 8; 1959 c 82 s 2; 1978 c 562 s 20

423.49 FUNDS; CONTROL THEREOF.

Each such relief association shall have full and permanent charge of, and the responsibility for the proper management and control of all funds that may come into its possession, and particularly funds derived from the following sources:

(a) Funds derived from the tax levies by the city in which such relief association is located, and interest from the investment thereof.

(b) Funds derived from deductions made from the basic pay of members of such relief association.

(c) Funds derived from private sources such as gifts, charges, rents, entertainments, dues paid by members, and from other sources.

History: 1947 c 624 s 9

423.50 GENERAL FUND; SPECIAL FUND.

The money received from the various sources shall be kept in two separate and distinct funds, one to be designated as the association special fund, and the other as its general fund. All money received from the city in which the relief association is located, including wage deductions from the basic pay of policemen, shall be deposited in the special fund and shall be expended only for the purposes hereinafter authorized. All money received from other sources shall be deposited in the general fund, and may be expended for any purpose deemed proper by such association.

History: 1947 c 624 s 10

423.51 DISBURSEMENT FROM SPECIAL FUND.

All moneys received by such relief association and deposited by it in its special fund shall be appropriated and disbursed by each such association only for the following purposes:

(a) For the relief of sick, injured and disabled members of the association, their surviving spouses and orphans.

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

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

History: 1947 c 624 s 11; 1978 c 562 s 21; 1978 c 690 s 4

423.52 BYLAWS, SPECIFICATIONS AND DEFINITIONS.

Each relief association shall in its bylaws define the sickness and disability entitling its members to relief, and specify the amounts thereof, and also specify the amounts to be paid to its disability and service pensioners, and to surviving spouses and children of deceased members, and fix the age limit of children to which pensions may be paid, subject to, and in accordance with, the provisions of sections 423.41 to 423.62.

History: 1947 c 624 s 12; 1978 c 562 s 22

423.53 SICKNESS OR ACCIDENT OF MEMBER; ALLOWANCE.

A member of such association who, by reason of sickness or accident, becomes disabled from performing the duties of a policeman in the police department of any such city, shall be entitled to receive from the association during disability, such disability pension as the bylaws of the association may provide, which pension shall in no event, however, be less than \$75 per month. No disability pension shall be paid or allowed by such association unless notice of the disability and application for pension on account thereof, shall be made by or on behalf of the disabled member to the secretary of the association within 90 days after such disability.

History: 1947 c 624 s 13

423.54 DISABILITY; ALLOWANCE.

A member of any such relief association entitled to disability pension, as herein defined, shall receive the same from such association for such periods of time, at such times and in such amounts, as the bylaws of the association shall provide, but in no event shall such disability pension be less than \$75 per month.

History: 1947 c 624 s 14

423.55 COMPLETION OF PERIOD OF SERVICE; AGE; RETIREMENT; SERVICE PENSION.

A member of any such association as herein defined, who has completed a period, or periods of service, as a policeman in the police department of any such city, equal to 20 years or more, shall, after he has arrived at the age of 50 years or more, and has retired from the payroll of the police department of such city, be entitled to a service pension equal to one-half of the monthly base pay of such policeman at the time of his retirement from said police department, but in no event shall such pension be less than \$75 per month, which pension shall be payable monthly during the term of his natural life in conformity with the bylaws of such association. All leaves of absence of more than 90 days, except such as are granted to a member because of his disability due to sickness or accident, shall be excluded in computing the period of service. No deductions shall be made for a leave of absence granted to a member to enable him to accept an appointive position in said police department not subject to the provisions of sections 423.41 to 423.62. No member shall be entitled to draw both a disability and a service pension.

History: 1947 c 624 s 15

423.56 MEMBER RETIRING AFTER SERVING 20 YEARS BUT HAS NOT REACHED RETIREMENT AGE.

A member of such association as herein defined, who has completed a period, or periods of service, as a policeman in the police department of any such city equal to 20 years or more, but has not reached the age of 50 years, shall have the right to

retire from the department without forfeiting his right to a service pension. He shall, upon application, be placed on the deferred pension roll of the association, and, after he has reached the age of 50 years, the association shall, upon application therefor, pay his pension from the date the application is approved by the association.

History: 1947 c 624 s 16

423.57 SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

In determining the years of service of any such policeman, no deduction shall be made for the period any such policeman shall have been a member of the armed forces of the United States subsequent to his entry into the service of the police department, who left the service of such police department to enter the armed forces of the United States, providing such policeman is honorably discharged from the armed forces of the United States, and resumes his duties as such within 60 days after such discharge from the armed services of the United States, or within such further period as may be granted to him by the board of directors of such association within which to resume said duties.

History: 1947 c 624 s 17

423.58 DEATH OF PENSIONER; RIGHTS OF SURVIVING SPOUSE AND CHILDREN.

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

(1) To such surviving spouse a pension of not less than \$50 and not to exceed \$100 per month, as the bylaws of such association shall provide, for the surviving spouse's natural life; provided, however, that if the surviving spouse shall remarry, then such pension shall cease and terminate as of the date of the surviving spouse's remarriage.

(2) To such child or children, if the surviving spouse of the member is living and has not remarried, a pension of not to exceed \$25 per month for each child up to the time each child reaches the age of not less than 16, and not to exceed 18 years of age, which pension and age shall be fixed by the bylaws of such association. Provided, the total pension hereunder for the surviving spouse and children of said deceased member shall not exceed the sum of \$150 per month.

(3) A child or children of a deceased member receiving a pension or pensions hereunder shall, after the death or remarriage of the surviving spouse of the member, be entitled to receive a pension or pensions in such amount or amounts as may be fixed by the bylaws of such association, until they reach the age of not less than 16 and not more than 18 years, as the bylaws of each association may provide; but the total amount of such pension or pensions hereunder for any child or children shall not exceed the sum of \$150 per month.

Subd. 2. **Definitions.** (a) "Surviving spouse" means a person who became the member's legally married spouse during or prior to the time the member was on the payroll of any such police department as a police officer, and remained such continuously after their marriage until the member's death, without having been granted a marriage dissolution or legal separation, and who, in case the deceased member was a service or deferred pensioner, was legally married to the member before the member's retirement from the police department; and who, in any case, was residing with the member at the time of the member's death. No temporary

absence for purposes of business, health or pleasure shall constitute a change of residence for purposes of this clause.

(b) "Surviving child" means any child born the issue of the lawful marriage of a service, disability or deferred pensioner, or of a deceased active member.

History: 1947 c 624 s 18; 1961 c 639 s 4; 1978 c 562 s 23; 1983 c 7 s 11

423.59 BOARD OF EXAMINERS.

The relief association shall establish a board of examiners who shall, as and when requested by the association's board of directors, investigate and make report on all applications for disability pension and make recommendations as to the allowance or disallowance thereof; investigate and make report on all disability pensioners, and make recommendations as to the continuance or discontinuance thereof; and investigate and report on all applications for service pensions. This board shall consist of a competent physician selected by the association, and at least three members of the relief association on active duty with the police department, and a majority vote of the members of the relief association on said board shall constitute its recommendation to the board of directors.

History: 1947 c 624 s 19

423.60 [Repealed, 1983 c 38 s 1]

423.61 PENSION EXEMPT FROM LEGAL PROCESS.

All payments made or to be made by any such policemen's relief association under any of the provisions of sections 423.41 to 423.62 shall be totally exempt from garnishment, execution, or other legal process, except as provided in section 518.611, and no persons entitled to such payment shall have the right to assign the same, nor shall the association have authority to recognize any assignment, or to pay any sum on account thereof; and any attempt to transfer any such right or claim, or any part thereof, shall be absolutely void.

History: 1947 c 624 s 21; 1984 c 547 s 11

423.62 RIGHTS UNDER WORKERS' COMPENSATION NOT AFFECTED.

Sections 423.41 to 423.62 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: 1947 c 624 s 22; 1975 c 359 s 23

423.71-423.775 [Local, City of Minneapolis, Police Pensions]

CITIES SECOND CLASS

423.801 DEFINITIONS.

Subdivision 1. For the purposes of sections 423.801 to 423.814 the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Member" means any person who is employed as a police officer, radio engineer or clerk, or any other person who is duly appointed and regularly entered on the police payroll and on active duty. The term shall not include any person who is employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act from and after March 30, 1978 unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the relief

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

Subd. 3. "Unit" means that fractional part of the monthly salary of a first grade patrolman for the second month of the previous fiscal year as determined in the articles of incorporation of the association which fractional part shall never be less than one-ninetieth nor greater than one-seventy-fifth of such monthly salary.

Subd. 4. "Disability" means a physical or mental incapacity of a member to perform the duties of his position in the service of the police department.

Subd. 5. "Pensioner" means a former member who has qualified for and is receiving a pension.

Subd. 6. "Deferred pensioner" means a member who has completed not less than 20 years of service and retires before reaching the age of 50 years who is entitled to receive a pension when he attains the age of 50 years, upon a written request therefor.

History: 1955 c 105 s 1; 1957 c 191 s 1; 1978 c 720 s 16; 1981 c 224 s 196

423.802 ESTABLISHMENT OF POLICE RELIEF ASSOCIATION.

Subdivision 1. The members of the police department of each city of the second class which was so classified on December 31, 1979 shall organize a police relief association or maintain the relief association now existing.

Subd. 2. This association shall create, maintain, and administer a police pension fund for the benefit of its members, their surviving spouses, and their surviving children.

History: 1955 c 105 s 2; 1978 c 562 s 24; 1981 c 224 s 197

423.803 INCORPORATION, GOVERNING BOARD.

The association shall become incorporated. It shall be governed by a board of eight members. The mayor, chief of police, and treasurer of the city shall be ex officio members. The other members shall be elected by the members of the association. Those elected to the first board shall be elected for terms of one, two, three, four, five years respectively; thereafter election shall be for a term of five years. Each elective member shall hold office until his successor is elected and has qualified. Any vacancy in the office of an elective member shall be filled by a special election called for that purpose. Any member so elected shall hold office for the balance of the term for which his predecessor was elected.

History: 1955 c 105 s 3

423.804 REGULATION.

The affairs of the association shall be regulated by its articles of incorporation and bylaws.

History: 1955 c 105 s 4

423.805 POLICE PENSION FUND.

The association shall establish a police pension fund or continue to maintain the police pension fund now existing in the city and shall have the management and control of the fund.

History: 1955 c 105 s 5; 1981 c 224 s 198

423.806 SOURCES OF FUNDS.

Subdivision 1. These funds are derived from the following sources:

- (a) Gifts made for that purpose;
- (b) Rewards received by members;
- (c) Moneys which comes into the possession of members which remains unclaimed for six months;
- (d) Proceeds from sales of property which comes into the possession of members and which remains unclaimed for three months, which property shall be sold by the chief of police;
- (e) Contributions made by members through payroll deduction, the amount of which shall be specified in the bylaws of the relief association;
- (f) All moneys derived from taxations, as provided by section 423.807;
- (g) Moneys in the special fund of the relief association maintained by the association and all interest thereon or gains therefrom;
- (h) Any other income allowed by law.

Subd. 2. Any surplus remaining in these funds at the close of any fiscal year shall continue therein.

History: 1955 c 105 s 6; 1967 c 295 s 1; 1981 c 224 s 199

423.807 TAX LEVY.

Subdivision 1. Except as provided in subdivision 2, in addition to all other taxes it may levy, the city shall levy a tax of one-third of one mill at the time and in the manner it levies other taxes, and the proceeds of this tax shall be paid into the police pension fund.

Subd. 2. Any levy by the city for support of the relief association shall not be less than one-tenth of one mill.

Subd. 3. The amount necessary to extend or reduce tax levies as herein provided shall not be included as a part of the general tax levy for city purposes or in the calculation of any limitation of any percent of the assessed valuation upon which taxes are required to be extended.

Subd. 4. Any appropriation made to this fund from this tax levy is not to be considered a part of the cost of government as defined in the charter of the city.

History: 1955 c 105 s 7; 1957 c 191 s 2; 1973 c 773 s 1; 1981 c 224 s 200,201

423.808 USES OF PENSION FUND.

The police pension fund shall be used only for the payment of:

- (a) service, disability, or dependency pensions; and
- (b) expenses of administration of the association as authorized pursuant to section 69.80.

History: 1955 c 105 s 8; 1978 c 690 s 5; 1981 c 224 s 202; 1982 c 403 s 1

423.809 PENSIONS, LIMITATIONS.

Subdivision 1. The association shall grant pensions payable from the police pension fund in monthly installments, in the manner and for the following purposes:

- (1) Any member of the age of 50 years or more, who performs duty as a member of the police department of the city for 20 years or more, upon written application after retiring from duty, shall be paid monthly during the retiring

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member's lifetime a pension equal to 35 units and an additional unit for each year of service in excess of 20 years, but not to exceed 42 units.

(2) Any member who performs duty as a member of the police department of the city for 20 years or more who retires from duty before attaining the age of 50 years, upon written application after reaching the age of 50 years shall be paid monthly during the retiring member's lifetime a pension equal to 35 units and an additional unit for each year of service in excess of 20 years, but not to exceed 40 units.

(3) Any member who, after ten years service but with less than 20 years service with the police department of the city, becomes superannuated so as to be permanently unable to perform the member's duties, shall be paid monthly during the retiring member's lifetime a pension equal to 16 units and an additional two units for each completed year of service over ten years and less than 20 years.

(4) Any member not eligible for a service pension who, while a member of the police department of the city, becomes diseased or sustains an injury which permanently unfits the member for the performance of police duties, shall be paid monthly during the disabled member's lifetime a pension equal to 36 units while so disabled.

Subd. 2. If a member of the police department of the city is separated from the service under circumstances that no pension benefits are payable to the member or to the member's surviving spouse or to the member's surviving children, the treasurer of the city shall return to the member 75 percent of the amount the member has paid in without interest. In the event the member is reinstated to police duty all moneys paid to the member shall be returned to the pension fund within six months from the date of the reinstatement. Failure to do so relieves the association from any liability as to prior years of service credit as of the reinstatement date. In case of the death of the member, any sums shall be paid to the member's heirs, executors, or administrators.

Subd. 3. In the case of any applicant for a pension pursuant to subdivision 1, clauses (1), (2), or (3), who, following admission to membership in the association has served in the military forces of the United States in any war or national defense emergency subsequent to January 1, 1940, and thereafter returned honorably discharged from such service and resumed membership in the association, the period that the applicant spent in such military service shall be counted in computing period of service required for benefits under this section. During such period of military service or defense emergency service, any such person is not considered a member of the association and is not entitled to any pension provided by subdivision 1, clauses (3) and (4). If the member does not return to his employment in the police department of the city within one year from the time peace is declared or within one year from the termination of the period of emergency, whichever is the later, the provisions of this subdivision shall not apply.

Subd. 4. No member shall be awarded, granted, or paid a pension pursuant to subdivision 1, clauses (3) and (4), except upon the certificate of two or more physicians or surgeons chosen by the governing board. This certificate shall set forth the cause, nature, and extent of the disability, disease, or injury of the member. No member shall be awarded, granted, or paid a pension pursuant to subdivision 1, clause (4), unless the certificate states the disability, disease, or injury. Each such certificate shall be filed with the association.

Subd. 5. A member who has been finally convicted of a felony is not entitled to any pension.

History: 1955 c 105 s 9; 1981 c 224 s 203,204

423.810 BENEFITS.

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

(a) To the surviving spouse, a pension of 18 units per month, for the surviving spouse's natural life; but if the surviving spouse shall remarry the pension shall cease as of the date of the remarriage.

(b) To each surviving child, a pension of six units per month until the child reaches the age of 18 years.

The total pensions hereunder for the surviving spouse and children of a deceased member shall not exceed 36 units per month.

"Surviving spouse" means a person who was the member's legally married spouse, residing with the member, and who was married during or prior to the time the member was on the payroll of the police department, and who, in case the deceased member was a service or deferred pensioner, was legally married to the member at least one year before the member's retirement from the police department. "Surviving child" means any child of the deceased member who was living while the deceased member was on the payroll of the police department or was born within ten months after the deceased member was withdrawn from the payroll of the police department and who has not attained the age of 18 years.

Subd. 2. A surviving spouse or child under 18 years of age of any member convicted of a felony shall not be deprived of a pension by reason of the conviction unless the surviving spouse or child was a party to the commission of the felony. When such member is receiving a pension at the time of conviction, the member's spouse or children under 18 years of age who were not parties to the commission of the felony shall receive the pension provided for herein, in the event of the member's death.

Subd. 3. Any member who becomes disabled from performing his duties as a member of the police department of the city by reason of sickness or accident, if off the payroll of the police department, having exhausted all sick leave and other benefits due him, is entitled to receive from the association during his disability such benefits as the bylaws of the association provide, but such benefits shall not extend beyond a six-months period. The bylaws may provide that such a member shall have completed a minimum number of years of service in order to be entitled to such benefits. Before any such benefits shall be paid or allowed, notice of the disability and application for benefits on account thereof shall be made to the secretary of the association within 90 days after such sickness or disability.

History: 1955 c 105 s 10; 1978 c 562 s 25,26; 1981 c 224 s 205

423.811 [Repealed, 1981 c 233 s 2]

423.812 SUIT FOR BENEFITS.

No person shall sue for any benefits provided in section 423.809, subdivision 1, clauses (3) or (4), unless he shall post a bond in a sufficient amount to defray the cost to the governing board of defending the action. In the event the governing board is sustained the portion of the bond necessary to defray these costs shall be forfeited.

History: 1955 c 105 s 12; 1965 c 51 s 75

423.813 PAYMENTS EXEMPT FROM PROCESS, ASSIGNMENT FORBIDDEN.

Any payment made by the association under any provision of sections 423.801 to 423.814 is exempt from any legal process, except as provided in section 518.611. No person entitled to any such payment may assign the same. The association may not recognize any assignment or pay any sum on account thereof.

History: 1955 c 105 s 13; 1984 c 547 s 12

423.814 RIGHTS OF MEMBERS NOW RECEIVING PENSIONS.

Any member of the association who received a pension for the month of June, 1954, and who is eligible to receive a pension thereafter shall receive a pension each month thereafter, during the time he is so eligible to receive a pension, equal to not less than 32 units nor more than 35 units.

History: 1955 c 105 s 14

423.815 Subdivision 1. [Repealed, 1982 c 578 art 1 s 19]

Subd. 2. [Repealed, 1982 c 578 art 1 s 19]

Subd. 3. [Repealed, 1981 c 224 s 276]

423.82-423.836 [Local, City of St. Paul, Police Pensions]

423.90 PAYMENT OF BENEFITS OUTSIDE THE UNITED STATES.

Notwithstanding any law to the contrary, any police relief association operating pursuant to this chapter, or any applicable special law, may pay a service pension or other retirement benefit to any eligible person who is not a resident of the United States if the person has established an account in a banking institution within the jurisdiction of the district courts of the United States, the banking institution serves as a trustee for the person and the payment of the service pension or retirement benefit is made to the banking institution.

History: 1981 c 233 s 1