

## CHAPTER 423A

## POLICE AND SALARIED FIREFIGHTERS' RELIEF ASSOCIATION

423A.01	Police and salaried firefighters' relief associations.	423A.13	Less hazardous duty employment for marginally disabled police officers or firefighters.
423A.02	Local police and firefighters' relief association amortization state aid.	423A.14	Offsets from disability benefits.
423A.03	Temporary provision; application to certain municipalities.	423A.15	Effect of provisions for existing disability benefit recipients.
423A.04	Alternative benefit increase.	423A.16	Exemption from assignments; process.
423A.05	Clarification of interpretation on authority to approve alternative benefit increase.	423A.17	Continuation of surviving spouse benefits upon remarriage.
423A.06	Minimum disability benefit coverage for certain police officers and firefighters.	423A.171	Bylaw amendments.
423A.07	Additions to board.	423A.18	Member contribution refund to beneficiary upon death; authority to implement benefit.
423A.10	Powers of city officials limited.	423A.19	Reduced vesting requirement.
423A.11	Recomputation of a disability benefit as a service pension.	423A.20	Vesting upon layoff.
423A.12	Service credit for periods of disability.	423A.21	Records; board representation; fiduciary responsibility.
		423A.22	Reports; financial transactions.

**423A.01 POLICE AND SALARIED FIREFIGHTERS' RELIEF ASSOCIATIONS.**

Subdivision 1. **Membership of new police and salaried firefighters in the public employees police and fire fund.** Notwithstanding any law to the contrary, all persons first employed by any municipality as police officers or police officer trainees, salaried firefighters or firefighter trainees or public safety officers or public safety officer trainees after June 15, 1980 shall be members of the public employees police and fire fund established by sections 353.63 to 353.68, and shall not be members of any local police or paid firefighters' relief association established or maintained by the municipality, unless the municipality elects to retain the local relief association by the adoption of a municipal resolution approved by a majority of the governing body of the municipality following the holding of a public meeting at which the views of the public are considered and a copy of the municipal resolution is filed with the secretary of state, the commissioner of finance, the commissioner of commerce and the executive director of the legislative commission on pensions and retirement on or before August 15, 1980.

Subd. 2. **Operation of local relief association upon modification of retirement coverage for newly hired police officers and firefighters.** The following provisions shall govern the operation of a local relief association upon the modification of retirement coverage for newly hired police officers or firefighters:

(1) The minimum obligation of a municipality in which the retirement coverage for newly hired police officers or salaried firefighters has been modified pursuant to subdivision 1 with respect to the local relief association shall be determined and governed in accordance with the provisions of sections 69.77, 356.215, and 356.216, except that the normal cost calculation for the relief association shall be computed as a percentage of the compensation paid to the active members of the relief association. The compensation paid to persons with retirement coverage modified pursuant to subdivision 1 shall not be included in any of the computations made in determining the obligation of the municipality with respect to the local relief association.

(2) The contribution rate of members of the local relief association shall be governed by section 69.77, unless a special law establishing a greater member contribution rate is applicable whereupon it shall continue to govern. The member contribution rate of persons with retirement coverage modified pursuant to subdivision 1 shall be governed by section 353.65.

(3) Unless otherwise provided for by law, when every active member of the local relief association retires or terminates from active duty, the local relief association shall cease to exist as a legal entity and the assets of the special fund of the relief association shall be transferred to a trust fund to be established by the appropriate municipality for the purpose of pay-

ing service pensions and retirement benefits to recipient beneficiaries. Recipient beneficiaries who are competent to act on their own behalf shall be entitled to select the prescribed number of trustees of the trust fund as provided in this clause, subject to the approval of the governing body of the municipality. If there are at least five recipient beneficiaries, the trust fund shall be managed by a board of trustees composed of five persons selected by the recipient beneficiaries of the fund. When there are fewer than five recipient beneficiaries, the number of trustees selected by the recipient beneficiaries shall be equal to the number of the remaining recipient beneficiaries. The governing body of the municipality shall select the additional trustees. The term of the elected members of the board of trustees shall be indefinite and shall continue until a vacancy occurs in one of the board of trustee member positions. Board of trustee members shall not be compensated for their services, but shall be reimbursed for any expenses actually and necessarily incurred as a result of the performance of their duties in their capacity as board of trustee members. The municipality shall perform whatever services are necessary to administer the trust fund. When all obligations of the trust fund are paid, the balance of the assets remaining in the trust fund shall revert to the municipality for expenditure for law enforcement or firefighting purposes, whichever is applicable.

(4) The financial requirements of the trust fund and the minimum obligation of the municipality with respect to the trust fund shall be determined in accordance with sections 69.77, 356.215, and 356.216 until the unfunded accrued liability of the trust fund is fully amortized in accordance with section 69.77, subdivision 2b. The municipality shall provide in its annual budget for at least the aggregate amount of service pensions, disability benefits, survivorship benefits, and refunds which are projected as payable for the following calendar year, as determined by the board of trustees of the trust fund, less the amount of assets in the trust fund as of the end of the most current calendar year for which figures are available, valued pursuant to section 356.20, subdivision 4, clause (1)(a), if the difference between those two figures is a positive number.

(5) In calculating the amount of service pensions and other retirement benefits payable from the local relief association and in calculating the amount of any automatic postretirement increases in those service pensions and retirement benefits based on the salary paid or payable to active members or escalated in any fashion, the salary for use as the base for the service pension or retirement benefit calculation and the postretirement increase calculation for the local relief association shall be the salary for the applicable position as specified in the articles of incorporation or bylaws of the relief association as of the date immediately prior to the effective date of the modification of retirement coverage for newly hired personnel pursuant to subdivision 1, as the applicable salary is reset by the municipality periodically, irrespective of whether retirement coverage for persons holding the applicable position used in calculations is provided by the relief association or by the public employees police and fire fund. If for a local salaried firefighters relief association, the specified position no longer exists because of a reorganization of the fire department as a volunteer fire department, the percentage increase in the salary of the position of a top grade patrol officer in the police department of the municipality must be the basis for service pension and retirement benefit postretirement increase calculations.

(6) If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local police relief association, the police state aid received by the municipality shall be disbursed pursuant to section 69.031, subdivision 5, clause (2)(c). If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local firefighters' relief association, the fire state aid received by the applicable municipality other than a city of the first class with a population of more than 300,000 shall be disbursed as the municipality at its option may elect. The municipality may elect: (a) to transmit the total fire state aid to the treasurer of the local relief association for immediate deposit in the special fund of the relief association; or (b) to apply the total fire state aid toward the employer contribution of the municipality to the public employees police and fire fund pursuant to section 353.65; subdivision 3; or (c) to allocate the total fire state aid proportionately between the special fund of the local relief association and employer contribution of the municipality to the public employees police and fire fund on the basis of the respective number of active full-time salaried firefighters receiving retirement coverage from each.

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total fire state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of firefighters covered by the fund each payroll period and to transmit the balance to the firefighters relief association.

**Subd. 3. Benefit increase for certain relief association members.** Notwithstanding any law to the contrary, any member of a local police or salaried firefighters' relief association located in a municipality which has not adopted a municipal resolution retaining the local relief association pursuant to subdivision 1, except the city of Minneapolis, shall be entitled to receive, after the effective date for the modification of pension coverage for newly employed personnel, a retirement annuity in addition to the service pension to which the member may be eligible upon retirement. The additional retirement annuity shall be payable for the life of the retired member. The additional retirement annuity shall be equal to one-half of one percent of the salary upon which the service pension is calculated payable on the date of termination of active service per year of service credit acquired in excess of 25 years of service credit. The retirement annuity under this subdivision shall not be subject to any post retirement increases granted pursuant to increases in the salary payable to a certain employment category or in the salaries payable to active members or be in any other manner escalated or increased after retirement.

**Subd. 4. Automatic postretirement adjustments for certain newly employed, active and retired members.** (1) Notwithstanding any provision of law, municipal charter, municipal ordinance or resolution, or relief association articles of incorporation or bylaws to the contrary, any person who meets one of the following requirements for entitlement shall be entitled to an annual automatic postretirement adjustment in the amount of the service pension calculated pursuant to clause (2). A person meets the requirements for entitlement if:

(a) the person is a member of a covered local police or salaried firefighters' relief association enumerated in clause (3), commences receiving a service pension at an age no earlier than attaining the age of 55 years, and has met all applicable requirements for entitlement to a service pension specified in the applicable laws and relief association articles of incorporation or bylaws governing the local relief association;

(b) the person is a retired member of a covered local police or salaried firefighters' relief association enumerated in clause (3), retired on a service pension after June 15, 1980 after attaining the age of at least 50 years but prior to attaining the age of 55 years, and attains the age of 55 years subsequent to retirement; or

(c) the person was a retired member on June 15, 1980 of a covered local police or salaried firefighters' relief association or retirement trust fund enumerated in clause (3), is receiving a service pension, and has attained the age of at least 55 years.

(2) Any person who meets the requirements specified in clause (1)(a) or (1)(b) shall be entitled to receive the annual automatic postretirement adjustment on the January 1 next following the date upon which the requirements for entitlement are met but in no event prior to the date upon which the person attains the age of 55 years. Any person who meets the requirements specified in clause (1)(c) shall be entitled to receive the adjustment on the January 1 next following the date upon which the person attains the age of 55 years. The amount of the adjustment shall be determined by the board of trustees of the local relief association on or before December 1 annually and the adjustment shall accrue each year as of January 1 next following the determination date. The adjustment shall be first payable with the service pension payment made for January. Each adjustment in the amount of the service pension shall be based on the percentage increase in the salary upon which retirement coverage is credited during the prior year subject to the limitation provided for in this clause.

The percentage increase in the salary shall be applied to the amount of service pension payable to the person for the month immediately prior to the month in which the determination is made. The maximum percentage increase shall not exceed 3-1/2 percent in any year and any increase in the salary level of the applicable position used to govern the determination of adjustments in excess of 3-1/2 percent in any year shall not carry over to or be used to calculate the rate of salary increase for any succeeding year in which the increase in the salary of the applicable position does not exceed 3-1/2 percent.

(3) The provisions of this subdivision shall apply to the active members and retired members of a local police or salaried firefighters' relief association or to the retired members of a retirement trust fund contained in the following enumeration of covered relief associations:

- (a) Buhl police relief association;
- (b) Eveleth joint retired police and firefighters' retirement trust fund;
- (c) Moorhead firefighters' relief association;
- (d) Moorhead police relief association;
- (e) Thief River Falls police retirement trust fund;
- (f) Virginia firefighters' relief association;
- (g) West St. Paul police relief association.

**History:** 1980 c 607 art 15 s 4; 1982 c 578 art 3 s 16; 1983 c 289 s 114 subd 1; 1983 c 291 s 6,7; 1984 c 655 art 1 s 92; 1986 c 359 s 26; 1989 c 319 art 10 s 1; art 19 s 5

#### 423A.02 LOCAL POLICE AND FIREFIGHTERS' RELIEF ASSOCIATION AMORTIZATION STATE AID.

Subdivision 1. **Amortization state aid.** (a) A municipality in which is located a local police or salaried firefighters' relief association to which the provisions of section 69.77, apply, that had an unfunded actuarial accrued liability in the most recent relief association actuarial valuation, is entitled, upon application as required by the commissioner of revenue, to receive local police and salaried firefighters' relief association amortization state aid if the municipality and the appropriate relief association both comply with the applicable provisions of sections 69.031, subdivision 5, 69.051, subdivisions 1 and 3, and 69.77. If a municipality loses entitlement for amortization state aid in any year because its local relief association no longer has an unfunded actuarial accrued liability, the municipality is not entitled to amortization state aid in any subsequent year.

(b) The total amount of amortization state aid to all entitled municipalities must not exceed \$5,055,000.

(c) Subject to the adjustment for the city of Minneapolis provided in this paragraph, the amount of amortization state aid to which a municipality is entitled annually is an amount equal to the level annual dollar amount required to amortize, by December 31, 2010, the unfunded actuarial accrued liability of the special fund of the appropriate relief association as reported in the December 31, 1978, actuarial valuation of the relief association prepared under sections 356.215 and 356.216, reduced by the dollar amount required to pay the interest on the unfunded actuarial accrued liability of the special fund of the relief association for calendar year 1981 set at the rate specified in Minnesota Statutes 1978, section 356.215, subdivision 4, clause (4). For the city of Minneapolis, the amortization state aid amount thus determined must be reduced by \$747,232 on account of the Minneapolis police relief association and by \$772,768 on account of the Minneapolis fire department relief association. If the amortization state aid amounts determined under this paragraph exceed the amount appropriated for this purpose, the amortization state aid for actual allocation must be reduced pro rata.

(d) Payment of amortization state aid to municipalities must be made directly to the municipalities involved in three equal installments on July 15, September 15, and November 15, annually. Upon receipt of amortization state aid, the municipal treasurer shall transmit the aid amount to the treasurer of the local relief association for immediate deposit in the special fund of the relief association.

(e) The commissioner of revenue shall prescribe and periodically revise the form for and content of the application for the amortization state aid.

Subd. 1a. **Supplementary amortization state aid.** In addition to the amortization state aid under subdivision 1, there is a distribution of supplementary amortization state aid among those municipalities that receive amortization state aid under subdivision 1. The amount of the distribution is that proportion of the appropriation that the unfunded actuarial accrued liability of each relief association bears to the total unfunded actuarial accrued liabi-

lities of all relief associations as reported in the December 31, 1983, actuarial valuations of the relief associations receiving amortization state aid under subdivision 1. Money under this subdivision must be distributed at the same time that fire and police state aid is distributed under section 69.021.

Subd. 1b. **Additional amortization state aid.** Annually, on October 1, the commissioner of revenue shall allocate the additional amortization state aid transferred under section 69.021, subdivision 11, to:

(1) all police or salaried firefighter relief associations governed by and in full compliance with the requirements of section 69.77, that had an unfunded actuarial accrued liability in the actuarial valuation prepared under sections 356.215 and 356.216 as of the preceding December 31; and

(2) all local police or salaried firefighter consolidation accounts governed by chapter 353A that are certified by the executive director of the public employees retirement association as having for the current fiscal year an additional municipal contribution amount under section 353A.09, subdivision 5, paragraph (b), and that have implemented section 353A.083, subdivision 1, if the effective date of the consolidation preceded May 24, 1993, and that have implemented section 353A.083, subdivision 2, if the effective date of the consolidation preceded June 1, 1995.

The commissioner shall allocate the state aid on the basis of the proportional share of the relief association or consolidation account of the total unfunded actuarial accrued liability of all recipient relief associations and consolidation accounts as of December 31, 1993, for relief associations, and as of June 30, 1994, for consolidation accounts.

Subd. 2. **Continued eligibility.** A municipality that has qualified for amortization state aid under subdivision 1 on December 31, 1984, and has an additional municipal contribution payable under section 353A.09, subdivision 5, paragraph (b), as of the most recent December 31, continues upon application to be entitled to receive amortization state aid under subdivision 1 and supplementary amortization state aid under subdivision 1a, after the local police or salaried firefighters' relief association has been consolidated into the public employees police and fire fund. If a municipality loses entitlement for amortization state aid and supplementary amortization state aid in any year because of not having an additional municipal contribution, the municipality is not entitled to the aid amounts in any subsequent year. If the actuarial assumptions specified in section 356.215 are changed in 1997, and the change results in a municipality having an additional municipal contribution, and the municipality had previously lost entitlement for amortization aid and supplementary amortization due to not having an additional municipal contribution, then the municipality is again entitled to receive amortization aid and supplementary amortization aid in the same amount as it previously received.

Subd. 3. **Reallocation of amortization or supplementary amortization state aid.** (a) Seventy percent of the difference between \$5,720,000 and the current year amortization aid or supplemental amortization aid distributed under subdivisions 1 and 1a that is not distributed for any reason to a municipality for use by a local police or salaried fire relief association must be distributed by the commissioner of revenue according to this paragraph. The commissioner shall distribute 70 percent of the amounts derived under this paragraph to the Minneapolis teachers retirement fund association and 30 percent to the St. Paul teachers retirement fund association to fund the unfunded actuarial accrued liabilities of the respective funds. These payments shall be made on or before June 30 each fiscal year. The amount required under this paragraph is appropriated annually from the general fund to the commissioner of revenue. If either the Minneapolis teachers retirement fund association or the St. Paul teachers retirement fund association becomes funded at the funding ratio applicable to the teachers retirement association based on the actuarial reports prepared by the actuary for the legislative commission on pensions and retirement, then the commissioner shall distribute that fund's share under this paragraph to the other fund. The appropriation under this paragraph terminates when both funds become fully funded. Amounts remaining in the undistributed balance account at the end of the biennium cancel to the general fund.

# MINNESOTA STATUTES 1998

(b) In order to receive amortization and supplementary amortization aid under paragraph (a), independent school district No. 625, St. Paul, must make contributions to the St. Paul teachers retirement fund association in accordance with the following schedule:

Fiscal Year	Amount
1996	\$0
1997	\$0
1998	\$200,000
1999	\$400,000
2000	\$600,000
2001 and thereafter	\$800,000

(c) In order to receive amortization and supplementary amortization aid under paragraph (a), special school district No. 1, Minneapolis, and the city of Minneapolis must each make contributions to the Minneapolis teachers retirement fund association in accordance with the following schedule:

Fiscal Year	City amount	School district amount
1996	\$0	\$0
1997	\$0	\$0
1998	\$250,000	\$250,000
1999	\$400,000	\$400,000
2000	\$550,000	\$550,000
2001	\$700,000	\$700,000
2002	\$850,000	\$850,000
2003 and thereafter	\$1,000,000	\$1,000,000

(d) Money contributed under paragraph (a) and either paragraph (b) or (c), as applicable, must be credited to a separate account in the applicable teachers retirement fund and may not be used in determining any benefit increases. The separate account terminates for a fund when the aid payments to the fund under paragraph (a) cease.

(e) Thirty percent of the difference between \$5,720,000 and the current year amortization aid or supplemental amortization aid under subdivisions 1 and 1a that is not distributed for any reason to a municipality for use by a local police or salaried firefighter relief association must be distributed under section 69.021, subdivision 7, paragraph (d), as additional funding to support a minimum fire state aid amount for volunteer firefighter relief associations. The amount required under this paragraph is appropriated annually to the commissioner of revenue.

**History:** 1980 c 607 art 15 s 5; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1985 c 261 s 5; 1986 c 359 s 17; 1991 c 345 art 1 s 92; 1992 c 437 s 1; 1992 c 511 art 4 s 23; 1994 c 465 art 3 s 58; 1996 c 390 s 35; 1996 c 438 art 4 s 8,9; 1997 c 241 art 9 s 1

## 423A.03 TEMPORARY PROVISION; APPLICATION TO CERTAIN MUNICIPALITIES.

Any municipality in which is located a local police or salaried firefighters' relief association which is governed by section 69.77, and in which all newly hired police officers or firefighters, whichever is applicable, after a certain date are required by special law to have their retirement coverage provided by the public employees police and fire fund established pursuant to chapter 353, and not by the local police or firefighters' relief association, may have made applicable any other provisions of section 423A.01, by adopting by majority vote of the governing body, a resolution implementing those provisions of section 423A.01 which are not present in or which are in substantial conflict with the applicable special law modifying retirement coverage for new police officers or firefighters, whichever is applicable, other than the date of the modification in retirement coverage. Prior to becoming effective, a copy of the municipal resolution shall be filed with the secretary of state, the commissioner of finance, the commissioner of commerce and the executive director of the legislative commission on pensions and retirement. To be deemed an implementing municipal resolution within the meaning of this section, the municipal resolution shall either refer to this section and the

applicable subdivisions of section 423A.01 or shall describe in summary form the modifications to be implemented.

**History:** 1980 c 607 art 15 s 6; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 359 s 26

#### **423A.04 ALTERNATIVE BENEFIT INCREASE.**

Notwithstanding any provision of law to the contrary, and in lieu of the benefit increase provided for in section 423A.01, subdivision 3, the governing body of a participating municipality, except the city of Minneapolis, is authorized by resolution approved by a majority of the members of the governing body, following consideration of an actuarial analysis of the effect of any change, to increase the service pension or retirement benefits provided by or modify any provision of the benefit plan of either a police relief association or a salaried firefighters' relief association unless the municipality elects to retain the local relief association by the adoption of a municipal resolution pursuant to section 423A.01, subdivision 1. The total cost of any increase or modification, including amortization by December 31, 2010, shall not exceed 1.26 percent of covered payroll.

**History:** 1980 c 607 art 15 s 7; 1981 c 224 s 207

#### **423A.05 CLARIFICATION OF INTERPRETATION ON AUTHORITY TO APPROVE ALTERNATIVE BENEFIT INCREASE.**

No provision of section 645.021, or Laws 1980, chapter 607, article XV, section 7 or 25, shall be construed as authorizing any municipality which approved an alternative benefit increase for a local police or salaried firefighters' relief association located in the municipality and which complied with section 645.021, subdivision 3, to amend, modify, or revoke that approval or substitute a different alternative benefit increase for the alternative benefit increase which was previously approved.

**History:** 1982 c 574 s 7

#### **423A.06 MINIMUM DISABILITY BENEFIT COVERAGE FOR CERTAIN POLICE OFFICERS AND FIREFIGHTERS.**

**Subdivision 1. Disability benefit coverage.** Notwithstanding any provision of law, municipal charter, municipal ordinance, municipal resolution, relief association articles of incorporation or relief association bylaws to the contrary, any person who is a member of a covered local police or salaried firefighters' relief association enumerated in subdivision 3 where the governing body of the appropriate municipality has approved the modification in the benefit plan of the relief association and who becomes disabled in the line of duty, or not in the line of duty, if the benefit is subject to the provisions of this section as specified in subdivision 3, as that disability is defined in and as that disability is determined pursuant to the statute, special law, articles of incorporation or bylaws governing the relief association, shall be entitled to a disability benefit calculated pursuant to subdivision 2.

**Subd. 2. Disability benefit amount.** The amount of the monthly disability benefit shall be equal to 40 percent of the salary payable by the municipality on the date of disability to a top grade patrol officer or a top grade firefighter, whichever is applicable. If the service pension payable to retiring members by the relief association is subject to annual automatic post-retirement adjustments or is in any fashion escalated, the disability benefit shall also be adjusted or escalated in the same manner, at the same times, and in the same amounts as service pensions are adjusted or escalated.

**Subd. 3. Covered relief associations and covered type of disability benefit.** The provisions of this section shall apply to the active members of a local police or salaried firefighters' relief association contained in the following enumeration of covered relief associations if the governing body of the applicable municipality approves the modification in the benefit plan of the relief association specified in this section following consideration of an actuarial valuation which is, or an actuarial estimate based on the most recent actuarial valuation which was, prepared in accordance with sections 356.215 and 356.216, based on the benefit plan of the appropriate local relief association including the modification provided for in this

subdivision and files a resolution indicating approval of the modification in the benefit plan with the secretary of state, the commissioner of commerce, and the executive director of the legislative commission on pensions and retirement on or before the first day of the tenth full month following March 24, 1982, and shall apply to the type or types of disability benefit coverage indicated:

- (a) Chisholm firefighters' relief association, disability not in the line of duty benefit;
- (b) Crookston firefighters' relief association, disability not in the line of duty benefit;
- (c) Fairmont police relief association, disability in the line of duty benefit and disability not in the line of duty benefit;
- (d) Hibbing firefighters' relief association, disability in the line of duty benefit and disability not in the line of duty benefit;
- (e) Hibbing police relief association, disability in the line of duty benefit and disability not in the line of duty benefit;
- (f) Virginia police relief association, disability in the line of duty benefit and disability not in the line of duty benefit; and
- (g) West St. Paul police relief association, disability in the line of duty benefit and disability not in the line of duty benefit.

**History:** 1982 c 610 s 2; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 359 s 26

#### **423A.07 ADDITIONS TO BOARD.**

Notwithstanding any other law, each local police and salaried firefighters' relief association may amend its bylaws and its articles of incorporation, as necessary, to provide for the inclusion of retirees on its board.

Upon adoption of the amendments, the relief association must file a copy of the amended bylaws with the executive director of the legislative commission on pensions and retirement. A relief association amending its articles of incorporation must comply with any statutory requirements pertaining to the filing of amended articles of incorporation.

**History:** 1985 c 261 s 6; 1986 c 359 s 26

#### **423A.10 POWERS OF CITY OFFICIALS LIMITED.**

When the governing board of a firefighters or police relief association in any city shall determine what is necessary to adequately protect, maintain and administer the firefighters or police relief association, neither the governing body of the city nor any official of the city may thereafter deny adequate representation therefor. Any duties performed by any member of the association pursuant to the determination under this section are deemed to be fire or police duties.

**History:** 1982 c 578 art 1 s 11

#### **423A.11 RECOMPUTATION OF A DISABILITY BENEFIT AS A SERVICE PENSION.**

Subdivision 1. **Termination of disability benefit.** The disability benefit of any disabled member of a local police or salaried firefighters relief association, whichever is applicable, shall terminate when the disabled member attains:

(a) the minimum age for the receipt of a service pension specified in the articles of incorporation or the bylaws of the relief association, if the disabled member has credit for at least the number of years of service for active duty which would entitle the disabled member to a service pension in an amount equal to the amount of the disability benefit; or

(b) the age attained by the disabled member when the total number of years of service credited for active duty and of years of receipt of a disability benefit equals the number of years of service credit which would entitle the disabled member to a service pension in an amount equal to the amount of the disability benefit, if the disabled member has credit for less than the number of years of service for active duty which would entitle the disabled member to a service pension in an amount equal to the amount of the disability benefit when the dis-



abled member attains the minimum age for the receipt of a service pension specified in the articles of incorporation or the bylaws of the relief association.

**Subd. 2. Amount of disability benefit recomputed as a service pension.** After the disability benefit terminates, the disabled member shall be deemed to be a service pensioner and shall be entitled to receive a service pension in an amount equal to the disability benefit without any benefit offset required pursuant to any applicable provision of law, articles of incorporation or bylaws which was payable by the relief association immediately prior to the date when the disability benefit terminated pursuant to this section or the service pension otherwise payable based on the service credit for active duty of the person, whichever amount is greater. The disability benefit recomputed as a service pension shall be subject to any annual automatic post retirement adjustments or escalation applicable to any other service pension payable by the relief association.

**Subd. 3. Limitation on disability benefit coverage.** No relief association member who has attained the age and acquired the service credit for termination of a disability benefit specified in subdivision 1 shall be eligible for a disability benefit after that date. If a relief association member who is ineligible for a disability benefit solely pursuant to the limitation set forth in this subdivision becomes permanently unable to perform the duties of a police officer or a firefighter, whichever is applicable, by virtue of a medically determinable illness or injury, the member shall be eligible to a service pension in an amount equal to the amount of the disability benefit which would have been paid had the person been entitled to a disability benefit, or the amount of the service pension otherwise payable based on the service credit for active duty of the person, whichever is greater.

**History:** 1982 c 610 s 3

#### **423A.12 SERVICE CREDIT FOR PERIODS OF DISABILITY.**

If the articles of incorporation or bylaws of a local police or salaried firefighters' relief association, whichever is applicable, so provide, any relief association member who received a disability benefit from the relief association on account of a medically determinable illness or injury which was at the time of the determination of the disability expected to be of permanent duration and who returned to active employment as a police officer or firefighter, whichever is applicable, shall be entitled to receive service credit toward the calculation of a service pension for the period or periods of the receipt of a disability benefit.

The maximum service credit which a relief association member may obtain pursuant to this subdivision shall be that amount of service credit which, when added to the service credit of the member for active duty, equals the amount of service credit which would entitle the member to a service pension in an amount equal to the amount of the disability benefit provided by the relief association.

**History:** 1982 c 610 s 4

#### **423A.13 LESS HAZARDOUS DUTY EMPLOYMENT FOR marginally DISABLED POLICE OFFICERS OR FIREFIGHTERS.**

Every city in which a local police or salaried firefighters' relief association is located shall make every reasonable attempt to provide less hazardous duty employment positions for marginally or less severely disabled police officers or firefighters, which is applicable, in the police department or in the fire department, whichever is applicable, with the same compensation, fringe benefits and other terms and conditions of employment as the person would have otherwise received currently as a regularly employed police officer or firefighter, which is applicable, of the same rank and experience.

**History:** 1982 c 610 s 5

#### **423A.14 OFFSETS FROM DISABILITY BENEFITS.**

**Subdivision 1. Occurrence of offsets.** If a police officer or firefighter, whichever is applicable, who is a member of a local police or salaried firefighters' relief association becomes disabled and is entitled to receive a disability benefit from the relief association and the disabled person is also entitled to receive benefits pursuant to the workers' compensation law by

virtue of that disability, and the total of the disability benefit and the workers' compensation benefits exceeds the salary which the disabled person received as of the date of the disability or the salary currently payable to the same employment position or an employment position which is substantially similar to the employment position which the person held as of the date of the disability, whichever is greater, then the disability benefit of that person which is otherwise payable shall be reduced to that amount which, when added to the workers' compensation benefits, after deducting any amounts payable as attorney fees, medical benefits or rehabilitation benefits, does not exceed the salary which the person received as of the date of the disability or the salary currently payable to the same employment position or an employment position which is substantially similar to the employment position which the person held as of the date of the disability, whichever is greater.

**Subd. 2. Limitation.** In no event shall the reduced disability benefit payable pursuant to the requirements of subdivision 1 exceed the amount of the disability benefit otherwise payable by the relief association without reference to subdivision 1 pursuant to the applicable statutes, special laws, articles of incorporation and bylaws.

**Subd. 3. No offset for recomputed disability benefit.** No offset pursuant to this section shall be required after a disability benefit is recomputed as a service pension pursuant to section 423A.11.

**Subd. 4. Reporting requirement.** Monthly, each city in which a local police or salaried firefighters' relief association is located shall notify the secretary of the relief association of the amounts payable to disabled police officers or firefighters, whichever is applicable, during the month pursuant to the workers' compensation law.

**Subd. 5. Offset inapplicable in certain instances.** If any reduction of benefits payable pursuant to the workers' compensation law by virtue of the receipt of a disability benefit from a local police or salaried firefighters' relief association is required pursuant to legislation enacted by the 1982 regular session or by a subsequent regular or special session, the provisions of this section shall not be applicable to any disability benefit recipient or any local police or salaried firefighters' relief association.

**History:** 1982 c 610, s 6

#### **423A.15 EFFECT OF PROVISIONS FOR EXISTING DISABILITY BENEFIT RECIPIENTS.**

The provisions of section 423A.06 shall apply to any member of any applicable local relief association in active service on or after March 24, 1982. The provisions of section 423A.11 shall apply to any person receiving a disability benefit from a local relief association on or after March 24, 1982. The provisions of section 423A.12 shall apply to any person who returns to active employment as a police officer, or firefighter, whichever is applicable, after receipt of a permanent disability benefit. The provisions of section 423A.14 shall apply to any person who first commences receipt of a disability benefit after March 24, 1982.

**History:** 1982 c 610 s 7; 1985 c 261 s 7

#### **423A.16 EXEMPTION FROM ASSIGNMENTS; PROCESS.**

Notwithstanding any law to the contrary, none of the money, annuities, or other benefits provided by any police or salaried firefighters' relief association shall be assignable in law or in equity, nor be subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518.6111.

**History:** 1984 c 547 s 13; 1988 c 668 s 8; 1997 c 203 art 6 s 92

#### **423A.17 CONTINUATION OF SURVIVING SPOUSE BENEFITS UPON REMARRIAGE.**

(a) Notwithstanding a provision of section 69.48; 423.387, subdivision 1; 423.58, subdivision 1; 423.810, subdivision 1; or 424.24, subdivision 1, or other law; article of incorporation, or bylaw governing a local police or salaried firefighters relief association to the contrary, the governing body of a municipality may mandate the applicable local police or salaried firefighters relief association to provide that a surviving spouse benefit is payable for the

life of the surviving spouse and remains payable even in the event of the remarriage of the surviving spouse.

(b) If the surviving spouse benefit change described in paragraph (a) is made, the change applies to a surviving spouse benefit payable on the effective date of the change and to the potential surviving spouses of all active, deferred, or retired members of the relief association who have that status on the effective date of the change.

(c) In addition, if the surviving spouse benefit change described in paragraph (a) is made a person who formerly was receiving surviving spouse benefits from the relief association and who had those benefits discontinued by virtue of the remarriage is entitled, upon application, to a resumption of the surviving spouse benefit, beginning with the last day of the month following receipt of the application by the secretary of the relief association. Nothing in this section authorizes the payment of a benefit amount to an estate.

(d) The change must be made by a municipal resolution adopted by a majority vote of the municipality. The resolution must be filed by the secretary of the relief association with the executive director of the legislative commission on pensions and retirement, the state auditor, and the secretary of state.

**History:** 1991 c 269 art 1 s 2; 1994 c 491 art 1 s 1

#### 423A.171 BYLAW AMENDMENTS.

(a) Notwithstanding a provision of section 69.48; 423.387, subdivision 1; 423.58, subdivision 1; 423.810, subdivision 1; 423B.10; or 424.24, subdivision 1, or other law governing a local police or salaried firefighters' relief association to the contrary, the board of trustees of a local relief association governed by section 69.77 or its successor board under chapter 353A or 353B, with municipal approval as provided in section 69.77, subdivision 2i, may amend the bylaws of the relief association to provide that a surviving spouse benefit is payable to a surviving spouse who married a deferred or retired member after the member's retirement, provided the marriage occurred at least five years before the death of the member.

(b) If the surviving spouse benefit change described in paragraph (a) is made, the change applies to a surviving spouse benefit payable on the effective date of the change and to the potential surviving spouses of all deferred or retired members of the relief association who have that status on the effective date of the change.

(c) The bylaw amendment is not effective until a certified copy of the amendment and the municipal approval has been filed by the municipal clerk with the executive director of the legislative commission on pensions and retirement, the state auditor, and the secretary of state.

(d) Notwithstanding the provisions of section 353B.11, a surviving spouse benefit change made under this section for a relief association that has consolidated with the public employees retirement association is effective upon approval by the public employees retirement association and the municipality pursuant to paragraph (c).

**History:** 1994 c 528 art 6 s 1

#### 423A.18 MEMBER CONTRIBUTION REFUND TO BENEFICIARY UPON DEATH; AUTHORITY TO IMPLEMENT BENEFIT.

(a) Notwithstanding any law to the contrary, for a local police or salaried firefighters relief association that implements the provision with municipal approval as provided in paragraph (c), if an active, deferred, or retired member of the relief association dies and no survivor benefit is payable, the designated beneficiary of the decedent or, if none, the legal representative of the estate of the decedent is entitled, upon application, to a refund.

(b) The refund under paragraph (a) is an amount equal to the member contributions to the credit of the decedent, plus interest on those contributions at an annual compound rate of five percent from the first day of the month following the date of the contribution to the first day of the month following the date of death of the decedent, reduced by the sum of any service pension or disability benefit previously paid by the fund to the decedent.

(c) The benefit under this section must be implemented by an amendment to the bylaws of the relief association, with municipal approval as provided in section 69.77, subdivision

2i. The bylaw amendment is not effective until a certified copy of the amendment and the municipal approval has been filed by the municipal clerk with the executive director of the legislative commission on pensions and retirement, the state auditor, and the secretary of state.

**History:** 1991 c 290 s 1

#### 423A.19 REDUCED VESTING REQUIREMENT.

Subdivision 1. **Reduced vesting.** Notwithstanding any law to the contrary, for a police or salaried firefighters relief association that implements the provision with municipal approval as provided in subdivision 4, a person with at least five years of service credited by the relief association is entitled, upon termination of active service and reaching at least the required normal retirement age, to receive a pro rata monthly service pension. The pro rata monthly service pension must be calculated in the amount and manner specified by the board of trustees, but not to exceed that portion of the service pension payable upon meeting the minimum age and years of service requirements that bears the same relationship that the person's actual years and portions of years of service bear to the minimum service requirement.

Subd. 2. **Survivor benefit coverage.** A person entitled to or receiving a reduced vesting service pension as provided in subdivision 1 is entitled to surviving spouse benefit coverage, surviving child benefit coverage, or both, if all other qualification requirements are met. The survivor benefit must be calculated in the amount and manner specified by the board of trustees, but not to exceed that portion of survivor benefit payable to a survivor of a deceased retired member who had met the minimum years of service requirement that bears the same relationship that the actual years and portions of years of service of the person bear to the minimum service requirement for a service pension.

Subd. 3. **Postretirement adjustments.** A reduced vesting service pension as provided in subdivision 1 or a survivor benefit payable on behalf of a deceased person entitled to or receiving a reduced vesting service pension as provided in subdivision 2 is entitled to postretirement adjustments if the comparable pension or benefit payable when the full minimum service requirement has been met is subject to postretirement adjustments. The postretirement adjustment must be the same percentage increase as the postretirement adjustment for the comparable pension or benefit payable when the full minimum service requirement has been met.

Subd. 4. **Implementation.** The reduced vesting requirement must be implemented by a local relief association through an amendment to the bylaws of the relief association with approval by the governing body of the municipality as required by section 69.77, subdivision 2i. The bylaw amendment may not be effective until a certified copy of it and the municipal approval has been filed by the municipal clerk with the executive director of the legislative commission on pensions and retirement, the state auditor, and the secretary of state.

**History:** 1987 c 372 art 9 s 36

#### 423A.20 VESTING UPON LAYOFF.

Notwithstanding any general or special law to the contrary, if a member of a salaried firefighters' relief association with ten or more years of service is laid off and replaced with a volunteer firefighter, the member shall be entitled to receive a pro rata monthly benefit. For purposes of this section, "laid off" means terminated from employment with the fire department because of a shortage of funds or curtailment of service or for any other reason not reflecting discredit on the member beyond the member's control.

The retirement benefit is to commence at the later of either the minimum age for retirement or the date at which the member would have accumulated the minimum number of years of service for retirement if the member had remained on duty.

The pro rata benefit shall be calculated by multiplying the amount of the benefit payable to a member who met the minimum age and years of service requirements for a normal pension by the ratio of the laid off member's actual years of service to the minimum years of service required for retirement. The initial benefit payable shall be subject to the same postretirement adjustments as other benefits payable from the relief association.

**History:** 1984 c 574 s 14

**423A.21 RECORDS; BOARD REPRESENTATION; FIDUCIARY RESPONSIBILITY.**

Subdivision 1. **Records.** A local relief association is subject to the provisions of chapter 6 relating to audits by the state auditor, the provisions of chapter 13, and the provisions of sections 15.17, 138.163, and 138.17 relating to the creation and retention of official and public records. The records of the special fund 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.

Subd. 2. **Municipal representation.** Notwithstanding any other law, the membership of the board of trustees shall include at least two members appointed by the municipality. The members appointed by the municipality shall have all the rights and privileges of board membership including full voting powers. No relief association shall reduce the number of municipal representatives on its board by reason of this subdivision.

Notwithstanding any law which designates certain officials as ex officio members of a board of trustees, the municipality may appoint the same number of members as it is authorized to have on the board in the laws governing the relief association as of March 20, 1986, but the municipality may appoint to those positions any individuals it so chooses.

Whenever the board of trustees appoints an investment subcommittee at least one of the municipal representatives must be a member of that investment subcommittee.

Subd. 3. **Public officers.** The officers and trustees of a local relief association are public officers for purposes of sections 471.87 and 609.43.

Subd. 4. **Fiduciary responsibility.** In the discharge of their respective duties, the officers and trustees shall be held to the standard of care enumerated in section 11A.09. In addition, the trustees must act in accordance with chapter 356A.

Each member of the board is a fiduciary and shall undertake all fiduciary activities in accordance with the standard of care of section 11A.09, and in a manner consistent with chapter 356A. No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:

- (1) sale or exchange or leasing of any real property between the relief association and a board member;
- (2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;
- (3) furnishing of goods, services, or facilities between the relief association and a board member; or
- (4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

**History:** 1986 c 359 s 15; 1989 c 319 art 8 s 24

**423A.22 REPORTS; FINANCIAL TRANSACTIONS.**

Subdivision 1. **Reports.** The board shall report to the municipality at least annually regarding each of the following:

- (1) the required municipal support for the relief association required pursuant to section 69.77;
- (2) the financial condition of the relief association according to the audited financial statements required pursuant to section 69.051;
- (3) investment objectives and performance;
- (4) surety bond amounts for its secretary and treasurer required pursuant to section 69.051, subdivision 4; and
- (5) the annual administrative budget for relief associations.

Subd. 2. **Relief association receipts and disbursements.** An official designated by the municipality shall receive and deposit all money received for the special fund of the relief

association and may countersign all disbursements from the accounts of the special fund of the relief association, but must countersign all disbursements of at least \$5,000. If an institution with trustee powers is hired to administer the financial affairs of the relief association, an official designated by the municipality must approve the trustee agreement and shall countersign authorizations for disbursements of at least \$5,000.

**History:** 1986 c 359 s 16