

## CHAPTER 423B

## MINNEAPOLIS POLICE PENSIONS

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## 423B.01 MINNEAPOLIS POLICE RELIEF ASSOCIATION; DEFINITIONS.

Subdivision 1. **Terms.** For purposes of sections 423B.01 to 423B.18, unless the context clearly indicates otherwise, each of the terms defined in this section has the indicated meaning.

Subd. 2. **Active member.** "Active member" means a person who was hired and duly appointed by the city of Minneapolis before May 1, 1959, as a police stenographer, police clerk, police telephone operator, police radio operator, or police mechanic or before June 15, 1980, as a police officer, police matron, or assistant police matron, who is regularly entered on the payroll of the police department, and who serves on active duty.

Subd. 3. **Active member percentage.** The "active member percentage" is the total number of units accrued by active members of the association divided by the sum of the total number of units to which eligible members are entitled and active members of the association have accrued.

Subd. 4. **Age.** "Age" means a person's age at the person's latest birthday.

Subd. 4a. MS 2002 [Expired]

Subd. 5. **Annual postretirement payment.** "Annual postretirement payment" means the payment of a lump sum postretirement benefit under section 423B.15 to an eligible member on June 1 following the determination date in any year.

Subd. 6. **Association.** "Association" means the Minneapolis Police Relief Association.

Subd. 7. **City.** "City" means the city of Minneapolis.

Subd. 8. **Determination date.** "Determination date" means December 31 of each year.

Subd. 9. **Disability.** "Disability" means a physical or mental incapacity of an active member to perform the duties of the person's position in the service of the police department.

Subd. 10. **Discharge.** "Discharge" means a complete separation from service in the police department.

Subd. 11. **Eligible member.** "Eligible member" means a person, including a service pensioner, a disability pensioner, a survivor, or dependent of a deceased active member, service pensioner, or disability pensioner, who received a pension or benefit from the relief association during the 12 months before the determination date.

Subd. 12. **Excess investment income.** "Excess investment income" means the amount, if any, by which the average time weighted total rate of return earned by the fund in the most recent prior five fiscal years has exceeded the actual average percentage increase in the current monthly salary of a first grade patrol officer in the most recent prior five fiscal years plus two percent, and must be expressed as a dollar

amount. The amount may not exceed one percent of the total assets of the fund, except when the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, in which case the amount must not exceed 1-1/2 percent of the total assets of the fund, and does not exist unless the yearly average percentage increase of the time weighted total rate of return of the fund for the previous five years exceeds by two percent the yearly average percentage increase in monthly salary of a first grade patrol officer during the previous five calendar years.

Subd. 13. **Fund.** "Fund" means the special fund of the relief association.

Subd. 14. **Net excess asset amount payment.** "Net excess asset amount payment" means the payment of an additional postretirement payment under section 423B.151 to an eligible member on June 1 following the determination date in the given year.

Subd. 15. **Net total excess asset amount.** "Net total excess asset amount" is the total excess asset amount stated in dollars and multiplied by the quantity one minus the active member percentage.

Subd. 16. **Retired member.** "Retired member" means a former active member who has terminated active service in the police department and who is entitled to receive a pension or benefit under sections 423B.01 to 423B.18, as amended, or any predecessor law.

Subd. 17. **Surviving spouse member.** "Surviving spouse member" means the person who was the legally married spouse of the member, who was residing with the decedent, and who was married while or before the time the decedent was an active member and was on the payroll of the police department, and who, in case the deceased member was a pensioner or deferred pensioner, was legally married to the member at least one year before the decedent's termination of active service with the police department. The term does not include the surviving spouse who has deserted a member or who has not been dependent upon the member for support, nor does it include the surviving common law spouse of a member.

Subd. 18. **Time weighted total rate of return.** "Time weighted total rate of return" means the percentage amount determined by using the formula or formulas established by the State Board of Investment under section 11A.04, clause (11), and in effect on January 1, 1987.

Subd. 19. **Total excess asset amount.** (a) "Total excess asset amount" means the difference, if positive, expressed in dollars, between the fund's market value of assets after any deductions required by section 423B.15, subdivision 2, and 110 percent of the actuarial accrued liabilities based on the actuarial valuation indicated in paragraph (b).

(b) The total excess asset amount in paragraph (a) exists if the actuarial liability funding ratio, according to the most recent annual actuarial valuation for the fund prepared in accordance with sections 69.77, 356.215, and 356.216, with adjustments required by section 423B.15, subdivision 2, equals or exceeds 110 percent.

Subd. 20. **Unit.** "Unit" means one-eightieth of the current monthly salary of a first grade patrol officer.

Subd. 21. **Actuarial equivalent.** "Actuarial equivalent" or "actuarially equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date at a specified age with each actuarial present value based on the appropriate mortality table adopted by the board of directors based on the experience of the fund and approved by the actuary retained by the Legislative Commission on Pensions and Retirement and using the applicable preretirement or postretirement interest rate assumptions specified in section 356.216.

**History:** 1992 c 471 art 1 s 1; 1996 c 438 art 4 s 10; 1997 c 233 art 4 s 1,2; 2000 c 461 art 17 s 1; 1Sp2001 c 10 art 6 s 19,21; 2002 c 392 art 7 s 3; 1Sp2003 c 12 art 6 s 5

**NOTE:** As of September 3, 2004, the Minneapolis City Council had not filed with the secretary of state a certificate of approval of an amendment to subdivision 12 made by Laws 2004, chapter 267, article 18, section 3. Accordingly, the amendment is not included in the text here. If a certificate is filed before January 4, 2005, the amendment is effective the day after its filing. If the filing with the secretary of state does not occur before January 4, 2005, the amendment is disapproved. Minnesota Statutes, section 645.021, subdivision 3. The current filing status may be confirmed by the secretary of state's office.

**423B.02** [Repealed, 1995 c 262 art 10 s 7]

**423B.03 LEAVE OF ABSENCE; CONTINUATION OF MEMBERSHIP.**

Subdivision 1. **Leave of absence.** A member of the police department who is an active member of the police relief association of the city of Minneapolis and who after January 1, 1969, is elected to a public office of the city may apply for and must be granted a leave of absence from the police department during the time the person is an incumbent of the elective public office of the city.

Subd. 2. **Continuation of membership.** Upon obtaining a leave of absence provided in subdivision 1, a member with ten or more years of service in the police department and the police relief association has the option to continue active membership in the police relief association of the city of Minneapolis. This option applies to future service as well as past service. The member desiring to exercise this option must make application to the governing body of the association, must designate the period of service for which the person desires coverage, and must pay the employee contribution to the police relief association to the same extent that the member would have paid had the person been on active duty with the police department during that period.

Subd. 3. **No simultaneous coverage.** A payment into the pension fund as provided in subdivision 2 may not be made or accepted and pension credit may not be allowed for any period of time for which the member pays into or earns pension credit from any other Minnesota pension plan for public employees.

Subd. 4. **Waiver of other rights.** A qualified member who exercises the option provided in subdivision 2 and is at that time a contributing member of another retirement fund or relief association by whatever name known, organized under any other law, and supported in whole or in part by the taxes on the same city, shall waive all benefits from the other retirement fund or relief association, for concurrent time, and shall be entitled to receive a refund of the net accumulated contributions made by the member to the other retirement fund or relief association, with interest, regardless of the provision of any law, rule, bylaw, or other action permitting or requiring membership in the other retirement fund or relief association, however organized.

*History:* 1992 c 471 art 1 s 3

**423B.04 RELIEF ASSOCIATION AND RETIREMENT FUND.**

Subdivision 1. **Relief association.** The active and retired members of the police department of the city of Minneapolis and their surviving spouses shall maintain the Minneapolis Police Relief Association.

Subd. 2. **Pension fund.** This association shall create, maintain, and administer a police officer's pension fund for the benefit of its members, and their survivors and beneficiaries. The sources of revenue of the fund are governed by section 423B.06. The authorized disbursements from the fund are governed by section 423B.07.

Subd. 3. **Membership.** All members as defined in section 423B.01 are members of the Minneapolis Police Relief Association.

Subd. 4. **Management of relief association and fund.** The board created in section 423B.05 shall manage and control the fund.

*History:* 1992 c 471 art 1 s 4

**423B.05 INCORPORATION, GOVERNMENT BY BOARD.**

Subdivision 1. **Members, terms, elections.** The association must be incorporated. It must be governed by a board of nine members. The Minneapolis City Council shall appoint two persons to serve as members. Those members must be appointed for a term of two years. All city appointments are effective from January 1 in the odd-numbered years through December 31 in the even-numbered years. The other members of the board must be elected by the members of the association. Board members

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electd from the active membership have a term of five years. Board members electd from the retired or surviving spouse membership must have a term of three years. An elective member of the board holds office until the person's successor is elected and has qualified. A vacancy in the office of an elective member of the board must be filled by a special election called for that purpose. There are three classes of board members, consisting of a class comprised of active board members, a class comprised of retired board members, and a class comprised of surviving spouse board members. Active members of the relief association may only vote for active board member positions. Retired members of the relief association may only vote for retired board member positions. Surviving spouse members of the relief association may only vote for the surviving spouse board member positions. Once established, a retired board member position and a surviving spouse board member position must remain as such.

In 1994, for the election for board member seat G, the board member position must be filled by a surviving spouse member. In 1995, for the regular election for board member seat C, previously held by an active member, the board member position must be filled by a retired member. In 1999, for the regular election for board member seat B, previously held by an active member, the board member position must be filled by a retired member.

The following sets forth the schedule for the election of the seven elected board member positions on the Minneapolis Police Relief Association Board:

| Year | Active board<br>member position<br>five-year term | Retired board<br>member position<br>three-year term | Surviving spouse<br>board member position<br>three-year term |
|------|---|---|--|
| 1992 |   | seat C  |  |
| 1993 | seat A  | seat E  |  |
| 1994 | seat B  | seat F  | seat G   |
| 1995 |   | seats C and D                                       |  |
| 1996 |   | seat E  |  |
| 1997 |   | seat F  | seat G   |
| 1998 | seat A  | seats C and D                                       |  |
| 1999 |   | seats B and E                                       |  |
| 2000 |   | seat F  | seat G   |
| 2001 |   | seats C and D                                       |  |
| 2002 |   | seats B and E                                       |  |
| 2003 | seat A  | seat F  | seat G   |
| 2004 |   | seats C and D                                       |  |
| 2005 |   | seats B and E                                       |  |
| 2006 |   | seat F  | seat G   |
| 2007 |   | seats C and D                                       |  |
| 2008 | seat A  | seats B and E                                       |  |
| 2009 |   | seat F  | seat G   |
| 2010 |   | seats C and D                                       |  |

As long as there remains at least one active member on active duty with the Minneapolis Police Department, there must be a member of the board of directors from the active ranks in accordance with the election procedures outlined in this section.

Subd. 2. **Articles of incorporation.** The affairs of the association must be regulated by its articles of incorporation and bylaws.

Subd. 3. **Continuation of board.** Notwithstanding the provisions of section 423A.01, subdivision 2, or any other law, the board of trustees and its successors established under subdivision 1 shall continue to govern the association until there are no more than 100 members of the police pension fund. The fund thereafter must become a trust fund in accordance with section 423A.01, subdivision 2.

Subd. 4. **Right to participate by mail-in ballot.** Active members, retired members, and surviving spouse members of the relief association have the right to participate in the election of board members of the association by mail-in ballot.

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Subd. 5. **Mail-in referendum on voting by mail.** (a) The board of the association is authorized to submit the following question in a binding member referendum to be conducted by mail:

“Shall the bylaws of the Minneapolis police relief association be amended to allow future proposed amendments to the bylaws of the relief association to be approved by a vote of relief association members by mail?

Yes . . . . .  
No . . . . .”

(b) The board of the relief association shall conduct the referendum by mailing a printed copy of the referendum question and of the ballot to all active members, retired members, and surviving spouse members in accordance with the voting procedures that the board of the relief association used in the most recent board election prior to March 1, 2001.

(c) Before submitting the referendum question to a vote by the relief association membership, the relief association board shall solicit the opinions of relief association members for the question and against the question. The solicitation for member comments must be included in the next regular relief association communication to relief association members following the proposal of the bylaw amendment and on the Web site of the relief association. The comment period continues for 30 days. The executive director of the relief association shall prepare a summary of the comments of relief association members for and against the question in a fair and impartial manner. A draft of the summary document must be placed on the Web site of the relief association for five days. If a relief association board member challenges the objectivity of the draft summary, the draft summary must be reviewed by a neutral third party. The neutral third party must be an accredited professional mediator. The relief association executive director shall include the recommendations of the neutral third party in the final summary document. The written summary prepared by the relief association executive director must be included with the question and the ballot mailed to relief association members.

(d) Balloting procedures must be designed to maintain secrecy as to the identity of voting members. The receipt of returned ballots and the counting of those ballots must be conducted by an accounting firm designated by the relief association board to perform those functions.

(e) For adoption, the question must receive favorable votes from two-thirds of the relief association members who return ballots on the question.

(f) If the question in paragraph (a) is approved in the referendum, future bylaw amendments must be conducted in the same manner as provided in this subdivision.

**History:** 1992 c 471 art 1 s 5; 1Sp2001 c 10 art 14 s 1,2

## 423B.06 SOURCE OF FUNDS.

Subdivision 1. **Sources.** The fund is derived from the following sources:

- (1) gifts provided to the fund;
- (2) rewards received by members of the Minneapolis Police Department;
- (3) money coming into the hands of members of the Minneapolis Police Department in their official capacity and remaining unclaimed for six months;
- (4) proceeds from sales of property coming into the hands of members of the Minneapolis Police Department in their official capacity and remaining unclaimed for six months, upon sale by the chief of police of the city;
- (5) an amount equal to the minimum percentage specified in section 69.77, subdivision 3, of the salary of a first grade patrol officer deducted from the monthly salary of each active member;

(6) all money derived from taxation as provided by sections 69.77, subdivisions 4, 5, 6, 7, and 8; and 423A.01, subdivision 2;

(7) all money received from the state amortization aid programs under section 423A.02, to fund the unfunded actuarial accrued liability of the association;

(8) all money received from the state under chapter 69, as state police aid;

(9) all money provided by the state for the association in addition to clauses (7) and (8);

(10) all money derived from taxation by the municipality for the support of the association and the payment of pensions; and

(11) money from the investment of, earnings on, and interest on the assets of the fund.

**Subd. 1a. Sales of unclaimed property.** The chief of police of the city shall sell property coming into the hands of members of the Minneapolis Police Department in their official capacity and remaining unclaimed for six months.

**Subd. 2. Continuation of assets.** Assets remaining in the fund at the close of a fiscal year continue.

**Subd. 3. Tax levy limits inapplicable.** (a) The amount of tax levies required under sections 69.77, and 423A.01, subdivision 2, must 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.

(b) Any appropriation made to the fund from a city tax levy must not be considered a part of the cost of government as defined in the charter of the city.

**Subd. 4. Impact on other laws.** No provision of Laws 1992, chapter 471, may be construed as reducing the amount or rate of contribution to the association by the municipality or a member of the association from the minimum contributions prescribed by section 69.77.

**Subd. 5. Tax levy.** Notwithstanding any provision of section 69.77 to the contrary, if in any year after the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of the actuarial accrued liabilities of the fund and subsequently the actuarial value of assets are less than 100 percent of the actuarial accrued liabilities, the city of Minneapolis is not required to levy a property tax to amortize any unfunded actuarial accrued liability unless the fund experiences two successive years when the actuarial value of assets are less than 100 percent of the actuarial accrued liabilities according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216.

**History:** 1992 c 471 art 1 s 6; 1997 c 233 art 4 s 3; 1997 c 241 art 9 s 2,3; 2002 c 392 art 1 s 8

#### 423B.07 AUTHORIZED FUND DISBURSEMENTS.

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

- (1) service, disability, or dependency pensions;
- (2) notwithstanding a contrary provision of section 69.80, the salaries of the elected members of the board of trustees in an amount not to exceed three units;
- (3) expenses of officers and employees of the association in connection with the protection of the fund;
- (4) expenses of operating and maintaining the association, including the administrative expenses related to the administration of the insurance plan authorized in section 423B.08; and
- (5) other expenses authorized by section 69.80, or other applicable law.

**History:** 1992 c 471 art 1 s 7; 1997 c 233 art 4 s 4; 1999 c 222 art 6 s 1

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## 423B.08 INSURANCE PLAN.

The board of the association may adopt a hospital and medical insurance plan for pension and benefit recipients, to be funded by the participating pension and benefit recipients. A pensioner or surviving spouse may authorize, in writing, a deduction from the person's pension or benefit for the insurance plan adopted by the association board.

*History: 1992 c 471 art 1 s 8*

## 423B.09 RELIEF ASSOCIATION SERVICE PENSIONS AND DISABILITY PENSIONS.

Subdivision 1. **Minneapolis police; persons entitled to receive pensions.** The association shall grant pensions payable from the police pension fund in monthly installments to persons entitled to pensions in the manner and for the following purposes.

(a) When the actuarial value of assets of the fund according to the most recent annual actuarial valuation performed in accordance with sections 356.215 and 356.216 is less than 90 percent of the actuarial accrued liabilities, an active member or a deferred pensioner who has performed duty as a member of the police department of the city for five years or more, upon written application after retiring from duty and reaching at least age 50, is entitled to be paid monthly for life a service pension equal to eight units. For full years of service beyond five years, the service pension increases by 1.6 units for each full year, to a maximum of 40 units. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 90 percent of actuarial accrued liabilities, active members, deferred members, and service pensioners are entitled to a service pension according to the following schedule:

|          |            |
|----------|------------|
| 5 years  | 8.0 units  |
| 6 years  | 9.6 units  |
| 7 years  | 11.2 units |
| 8 years  | 12.8 units |
| 9 years  | 14.4 units |
| 10 years | 16.0 units |
| 11 years | 17.6 units |
| 12 years | 19.2 units |
| 13 years | 20.8 units |
| 14 years | 22.4 units |
| 15 years | 24.0 units |
| 16 years | 25.6 units |
| 17 years | 27.2 units |
| 18 years | 28.8 units |
| 19 years | 30.4 units |
| 20 years | 34.0 units |
| 21 years | 35.6 units |
| 22 years | 37.2 units |
| 23 years | 38.8 units |
| 24 years | 40.4 units |
| 25 years | 42.0 units |

Fractional years of service may not be used in computing pensions.

(b) An active member who after five years' service but less than 20 years' service with the police department of the city, becomes superannuated so as to be permanently unable to perform the person's assigned duties, is entitled to be paid monthly for life a superannuation pension equal to four units for five years of service and an additional two units for each full year of service over five years and less than 20 years.

(c) An active member who is not eligible for a service pension and who, while a member of the police department of the city, becomes diseased or sustains an injury

while in the service that permanently unfits the member for the performance of police duties is entitled to be paid monthly for life a pension equal to 34 units while so disabled.

Subd. 2. **Death refund.** No refund of member contributions is payable upon separation from service. If an active member dies leaving no surviving spouse or children entitled to survivor benefits, the member's heirs, executors, or administrators are entitled to a refund of \$100 for each completed year of service.

Subd. 3. **Service in military forces, effect.** (a) An applicant for a pension under subdivision 1, paragraph (a) or (b), who, after becoming an active member has served in the military forces of the United States in a war or national defense emergency after January 1, 1940, and thereafter returned honorably discharged from military service and resumed active membership in the association, is entitled to have the period that the applicant spent in military service counted in computing periods of service required for benefits under this section, but the total credit for military service involving service rendered after June 1, 1963, may not exceed six years.

(b) During the period of military service or defense emergency service, the person is not considered to be an active member of the association and is not entitled to any pension provided by subdivision 1, paragraphs (b) and (c).

(c) If the member does not return to 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 later, the provisions of this subdivision do not apply.

(d) The provisions of this subdivision apply notwithstanding the provisions of the veteran's preference law or any other law, rule, or bylaw providing for credit for military service in computing the pensions for members of the Minneapolis Police Relief Association.

Subd. 4. **Certificate of physicians required.** (a) No member is entitled to a pension under subdivision 1, paragraph (b) or (c), except upon the certificate of two or more physicians, surgeons, chiropractors, licensed psychologists, or a combination of experts chosen by the governing board. This certificate must set forth the cause, nature, and extent of the disability, disease, or injury of the member.

(b) No active member may be awarded, granted, or paid a disability pension under subdivision 1, paragraph (c), unless the certificate states that the disability, disease, or injury was incurred or sustained by the member while in the service of the police department of the city. The certificate must be filed with the secretary of the association.

Subd. 5. **Member convicted of felony.** A member who has been convicted of a felony is not entitled to any pension during the period of incarceration in a penal institution as a punishment for the commission of a felony.

Subd. 6. **Optional annuities.** A member who is retired or disabled on the effective date of Laws 1997, chapter 233, article 4, section 6, may elect an optional retirement annuity within 60 days of the effective date of Laws 1997, chapter 233, article 4, section 6, instead of the normal retirement annuity. A member who retires or becomes disabled after the effective date of Laws 1997, chapter 233, article 4, section 6, may elect an optional retirement annuity prior to the receipt of any benefits. The optional retirement annuity may be a 50 percent, a 75 percent, or a 100 percent joint and survivor annuity without reinstatement in the event of the designated beneficiary predeceasing the member or a 50 percent, a 75 percent, or a 100 percent joint and survivor annuity with reinstatement in the event of the designated beneficiary predeceasing the member. Optional retirement annuity forms must be actuarially equivalent to the service pension and automatic survivor coverage otherwise payable to the retiring member and the member's beneficiaries. A member may only designate the member's spouse as the recipient of a joint and survivor annuity and no benefit or annuity may be paid to a person who does not meet the definition of a surviving spouse



member under section 423B.01, subdivision 17. Once selected, the optional annuity is irrevocable.

**History:** 1992 c 471 art 1 s 9; 1994 c 590 art 1 s 1; 1997 c 233 art 4 s 5,6; 2002 c 392 art 16 s 1; 2004 c 267 art 8 s 36

**NOTE:** As of September 3, 2004, the Minneapolis City Council had not filed with the secretary of state a certificate of approval of an amendment to subdivision 1 and addition of subdivision 7 by Laws 2004, chapter 267, article 18, sections 4 and 5. Accordingly, the amendment and new subdivision are not included in the text here. If a certificate is filed before January 4, 2005, the amendment and new subdivision are effective the day after its filing. If the filing with the secretary of state does not occur before January 4, 2005, the amendment is disapproved. Minnesota Statutes, section 645.021, subdivision 3. The current filing status may be confirmed by the secretary of state's office.

#### 423B.10 SURVIVOR BENEFITS.

Subdivision 1. **Entitlement; benefit amount.** (a) The surviving spouse of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was the legally married spouse of the decedent, residing with the decedent, and who was married while or before the time the decedent was on the payroll of the police department, and who, if the deceased member was a service or deferred pensioner, was legally married to the member for a period of at least one year before retirement from the police department, is entitled to a surviving spouse benefit. The surviving spouse benefit is equal to 22 units per month if the person is the surviving spouse of a deceased active member or disabilitant. The surviving spouse benefit is equal to six units per month, plus an additional one unit for each year of service to the credit of the decedent in excess of five years, to a maximum of 22 units per month, if the person is the surviving spouse of a deceased service pensioner, deferred pensioner, or superannuation pensioner. The surviving spouse benefit is payable for the life of the surviving spouse.

(b) A surviving child of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was living while the decedent was an active member of the police department or was born within nine months after the decedent terminated active service in the police department, is entitled to a surviving child benefit. The surviving child benefit is equal to eight units per month if the person is the surviving child of a deceased active member or disabilitant. The surviving child benefit is equal to two units per month, plus an additional four-tenths of one unit per month for each year of service to the credit of the decedent in excess of five years, to a maximum of eight units, if the person is the surviving child of a deceased service pensioner, deferred pensioner, or superannuation pensioner. The surviving child benefit is payable until the person attains age 18, or, if in full-time attendance during the normal school year, in a school approved by the board of directors, until the person receives a bachelor's degree or attains the age of 22 years, whichever occurs first. In the event of the death of both parents leaving a surviving child or children entitled to a surviving child benefit as determined in this paragraph, the surviving child is, or the surviving children are, entitled to a surviving child benefit in such sums as determined by the board of directors to be necessary for the care and education of such surviving child or children, but not to exceed the family maximum benefit per month, to the children of any one family.

(c) The surviving spouse and surviving child benefits are subject to a family maximum benefit. The family maximum benefit is 41 units per month.

(d) A surviving spouse who is otherwise not qualified may receive a benefit if the surviving spouse was married to the decedent for a period of five years and was residing with the decedent at the time of death. The surviving spouse benefit is the same as that provided in paragraph (a), except that if the surviving spouse is younger than the decedent, the surviving spouse benefit must be actuarially equivalent to a surviving spouse benefit that would have been paid to the member's spouse had the member been married to a person of the same age or a greater age than the member's age before retirement.

Subd. 2. **Survivor benefit coverage for a member convicted of a felony.** The surviving spouse or a surviving child of a deceased member who was convicted of a felony may not be deprived of a survivor benefit by reason of the conviction unless the

person was a party to the commission of the felony. For a member who is receiving a pension at the time of conviction, a survivor who was not a party to the commission of the felony remains entitled to receive the survivor benefit provided for in subdivision 1, in the event of the member's death.

**History:** 1992 c 471 art 1 s 10; 1993 c 124 art 1 s 2; 1997 c 233 art 4 s 7

**NOTE:** As of September 3, 2004, the Minneapolis City Council had not filed with the secretary of state a certificate of approval of an amendment to subdivision 1 made by Laws 2004, chapter 267, article 18, section 6. Accordingly, the amendment is not included in the text here. If a certificate is filed before January 4, 2005, the amendment is effective the day after its filing. If the filing with the secretary of state does not occur before January 4, 2005, the amendment is disapproved. Minnesota Statutes, section 645.021, subdivision 3. The current filing status may be confirmed by the secretary of state's office.

#### **423B.11 TEMPORARY DISABILITY BENEFITS.**

An active member who becomes disabled from performing duties as an active member of the police department of the city by reason of sickness or accident, who is off the payroll of the police department, and who has exhausted all accumulated vacation, overtime, and sick leave credits due to the member, is entitled to receive from the association temporary disability benefits in an amount as the bylaws of the association provide during the disability period. The temporary disability benefits may not extend beyond a six-month period except when an active member is disabled because of an injury sustained while on duty and then benefits may extend for an indefinite time during the existence of the disability. The bylaws may provide that an active member must have completed a minimum number of years of service in order to be entitled to temporary disability benefits. Before temporary disability benefits may be paid or allowed, notice of the disability and application for benefits on account of the disability must be made to the secretary of the association within 90 days after the sickness or disability.

The bylaws may provide that an active member's periods of disability up to one year may be included in computing the member's total years of service for pension entitlement and benefit calculation purposes.

**History:** 1992 c 471 art 1 s 11

#### **423B.12 MANDATORY RETIREMENT; CONSEQUENCE OF CONTINUED ACTIVE MEMBERSHIP.**

Subject only to the provisions of section 423.075, an active member must retire upon attaining age 65, and upon attaining age 65 must cease to be an active member of the association. An active member who knowingly fails or refuses to comply with this section thereby renders the person and the person's survivors ineligible for any pension or benefits provided under sections 423B.01 to 423B.18, as amended. A person who has ceased to be an active member of the association or has knowingly failed or refused to retire, is entitled only for the refund in an amount equal to \$100 per year of service credit, payable in a lump sum.

**History:** 1992 c 471 art 1 s 12; 1994 c 465 art 2 s 20

#### **423B.13 HEALTH AND WELFARE BENEFIT.**

Notwithstanding any law to the contrary, a person who, after July 1, 1980, retires on a service pension with at least 20 years of service or a permanent disability benefit from the relief association is entitled on January 1, 1981, or upon the date of retirement, whichever occurs later, to receive a monthly health and welfare benefit. The monthly health and welfare benefit is an amount equal to one unit. The monthly health and welfare benefit is payable to the retired member unless the retired member designates in writing that the amount be paid to an insurance carrier to defray the cost of any health or welfare related insurance coverage.

**History:** 1992 c 471 art 1 s 13

#### **423B.14 HEALTH INSURANCE ACCOUNT.**

(a) Notwithstanding any law to the contrary, contributions of active members of the relief association with at least 25 years of service made after the 25th year of

service must be deposited in a separate account and used to pay the future health insurance costs of the individual member upon that member's retirement.

(b) A member who retires with at least 25 years of service is entitled to receive periodic distributions from the remaining balance in the member's health insurance account, in the amount and with the frequency specified by the retiring member in conformance with rules adopted by the board of trustees for this purpose.

*History: 1992 c 471 art 1 s 14*

#### 423B.15 INVESTMENT RELATED POSTRETIREMENT ADJUSTMENTS.

Subdivision 1. **Annual postretirement payment authorized.** Notwithstanding the provisions of chapter 69, or any other law to the contrary, the relief association may provide annual postretirement payments to eligible members under this section.

Subd. 2. **Determination of excess investment income.** The board of trustees of the relief association shall determine by May 1 of each year whether or not the fund has excess investment income. The amount of excess investment income, if any, must be stated as a dollar amount and reported by the chief administrative officer of the relief association to the mayor and governing body of the city, the state auditor, the commissioner of finance, and the executive director of the Legislative Commission on Pensions and Retirement. The dollar amount of excess investment income up to one percent of the assets of the fund, except when the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities in which case the amount may not exceed 1-1/2 percent of the assets of the fund, must be applied for the purpose specified in subdivision 3. Excess investment income must not be considered as income to or assets of the fund for actuarial valuations of the fund for that year under sections 69.77, 356.215, and 356.216 and the provisions of this section except to offset the annual postretirement payment. Additional investment income is any realized or unrealized investment income other than the excess investment income and must be included in the actuarial valuations performed under sections 69.77, 356.215, and 356.216 and the provisions of this section.

Subd. 3. **Amount of annual postretirement payment.** The amount determined under subdivision 2 must be applied in accordance with this subdivision. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent of its total actuarial liabilities, the relief association shall apply the first one-half of excess investment income to the payment of an annual postretirement payment as specified in this subdivision and the second one-half of excess investment income up to one-half of one percent of the assets of the fund must be applied to reduce the state amortization state aid or supplementary amortization state aid payments otherwise due to the relief association under section 423A.02 for the current calendar year. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent funded and other conditions are met, the relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed one-half of one percent of the assets of the fund. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, the relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed 1-1/2 percent of the assets of the fund. Payment of the annual postretirement payment must be in a lump sum amount on June 1 following the determination date in any year. Payment of the annual postretirement payment may be made only if the average time weighted total rate of return for the most recent prior five years exceeds by two percent the actual average percentage increase in the current monthly salary of a top grade patrol officer in the most recent prior five fiscal years. The total amount of all payments to members may not exceed the amount determined under this subdivision. Payment to each eligible member must be calculated by dividing the total number of pension units to which eligible members

are entitled into the excess investment income available for distribution to members, and then multiplying that result by the number of units to which each eligible member is entitled to determine each eligible member's annual postretirement payment. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent of its actuarial accrued liabilities, payment to each eligible member may not exceed an amount equal to the total monthly benefit that the eligible member was entitled to in the prior year under the terms of the benefit plan of the relief association or each eligible member's proportionate share of the excess investment income, whichever is less. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, payment to each eligible member must not exceed the member's proportionate share of 1-1/2 percent of the assets of the fund.

A person who received a pension or benefit for the entire 12 months before the determination date is eligible for a full annual postretirement payment. A person who received a pension or benefit for less than 12 months before the determination date is eligible for a prorated annual postretirement payment.

**Subd. 4. Annual postretirement payment in the event of death.** In the event an eligible member dies after the determination date and before the payment of the annual postretirement payment, the chief administrative officer of the relief association shall pay that eligible member's estate the amount of the postretirement payment to which the eligible member was entitled.

**Subd. 5. Report on annual postretirement payment.** The chief administrative officer of the relief association shall prepare a report on the amount of all postretirement payments made under this section and the manner in which those payments were determined. That report must be submitted to the state auditor, the executive director of the Legislative Commission on Pensions and Retirement, and the city clerk of the city.

**Subd. 6. No guarantee of annual postretirement payment.** No provision of or payment made under this section may be interpreted or relied upon by any member of the relief association to guarantee or entitle a member to annual postretirement payments for a period when no excess investment income is earned by the fund. If the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent of its actuarial accrued liabilities, the distribution of assets under this section must not exceed one-half of one percent.

**Subd. 7. Annual actuarial valuation date.** Notwithstanding any provision of section 69.77, subdivision 10, 356.215, or 356.216 to the contrary, the annual actuarial valuation of the fund must be completed by May 1 of each year.

**History:** 1992 c 471 art 1 s 15; 1996 c 438 art 4 s 11; 1997 c 233 art 4 s 8-11; 2002 c 392 art 1 s 8

**NOTE:** As of September 3, 2004, the Minneapolis City Council had not filed with the secretary of state a certificate of approval of an amendment to subdivision 3 made by Laws 2004, chapter 267, article 18, section 7. Accordingly, the amendment is not included in the text here. If a certificate is filed before January 4, 2005, the amendment is effective the day after its filing. If the filing with the secretary of state does not occur before January 4, 2005, the amendment is disapproved. Minnesota Statutes, section 645.021, subdivision 3. The current filing status may be confirmed by the secretary of state's office.

#### **423B.151 EXCESS ASSET AMOUNT PAYMENT.**

**Subdivision 1. Determination of net total excess amount.** The board of the association shall determine by May 1 of each year whether the fund has a total excess asset amount for that year. If a total excess asset amount exists for the given year, the net total excess asset amount shall be determined. The total excess asset amount and net total excess asset amount shall be reported to the chief administrative officer of the association, the mayor and governing body of the city, the state auditor, the commissioner of finance, and the executive director of the legislative commission on pensions and retirement. The portion of the net excess asset amount which is distributed under

this section must not be considered as income to or assets of the fund for actuarial valuations of the fund for that year under sections 69.77, 356.215, 356.216, and Laws 2000, chapter 461, except to offset the amount distributed.

Subd. 2. **Total available for payment.** Twenty percent of the net total excess asset amount determined under subdivision 1 is available for excess asset amount payments under subdivision 3.

Subd. 3. **Net excess asset amount payments.** Except as limited under subdivision 4, the net excess asset amount payment to an eligible member is equal to the amount determined under subdivision 2 multiplied by the units applicable to the eligible member and divided by the total units of all eligible members.

Subd. 4. **Entitlement; priority.** A person who is an eligible member for the entire 12 months before the determination date is eligible for a full excess asset amount payment under subdivision 2. A person who is an eligible member for less than 12 months before the determination date is eligible for a prorated excess asset amount payment. If an eligible member dies after the determination date and before the excess asset amount payment commences, the association must pay the eligible member's excess asset amount payment to the eligible member's surviving spouse or, if no surviving spouse, to the member's estate.

Subd. 5. **Payment method.** The excess asset amount payments determined under this section commence on June 1 following the determination date. These amounts may be paid as a lump sum, disbursed to the eligible members in 12 equal monthly installments, or any other manner which the board shall determine.

Subd. 6. **No guarantee of annual residual investment payment.** No provision of Laws 2000, chapter 461, may be interpreted or relied upon by any member of the association to guarantee or entitle a member to a net excess asset amount payment relating to any year in which there is no net total excess asset amount.

**History:** 2000 c 461 art 17 s 2

#### **423B.16 SUIT FOR BENEFITS; BONDS.**

No person may sue for any pensions or benefits provided from the special fund of the relief association under sections 423B.01 to 423B.18, as amended, unless the person applying for a pension or benefit first posts a bond from a surety company competent to undertake the business in a sufficient amount to defray the expense of the governing board of defending the action. In the event that the governing board is sustained, the portion of the bond necessary to defray these expenses is forfeited to the relief association.

**History:** 1992 c 471 art 1 s 16

#### **423B.17 PAYMENTS EXEMPT FROM PROCESS.**

A payment made by the association under a provision of sections 423B.01 to 423B.18, as amended, is exempt from legal process except as provided in section 518.58, 518.581, or 518.6111. No person entitled to a payment may assign the same. The association may not recognize an assignment or pay a sum on account of an assignment.

**History:** 1992 c 471 art 1 s 17; 1997 c 203 art 6 s 92

#### **423B.18 DISPOSITION OF ASSETS UPON CONCLUSION OF BENEFIT PAYMENTS.**

Upon the death of the last benefit recipient and the certification by the chief administrative officer of the city of Minneapolis to the state auditor of the absence of any remaining person with a benefit entitlement, the assets of the relief association or trust fund, whichever applies, reverts to the city and may be used by the city only for law enforcement expenditure purposes.

**History:** 1992 c 471 art 1 s 18

**423B.19 CITY OF MINNEAPOLIS; NORMAL COST CONTRIBUTION ADJUSTMENT.**

Notwithstanding section 69.77, 356.215, 356.216, or any other law to the contrary, the required city contributions toward the association's normal cost, as determined by the actuary, are reduced below that otherwise payable by the full amount of active member contributions required by law to be directed to the association's health insurance escrow account rather than to the special fund.

**History:** 2000 c 461 art 17 s 3

**423B.20 SUSPENSION OF NORMAL COST CONTRIBUTIONS.**

Notwithstanding the provisions of section 69.77 or any other law to the contrary, if a total excess asset amount exists, as defined in section 423B.01, subdivision 19, the city is not required to make a contribution to the fund for the normal cost of active members.

**History:** 2000 c 461 art 17 s 4

**423B.21 CHANGE IN AMORTIZATION PERIOD.**

Subdivision 1. **Amortization treatment.** Notwithstanding section 69.77, subdivision 4; 356.215; 356.216; or any other law to the contrary, if the actuarial report for the association indicates an unfunded actuarial accrued liability after the fund has first achieved 100 percent funding, the unfunded obligation is to be amortized on a level dollar basis by December 31 of the year occurring 15 years later. If subsequent actuarial valuations determine a net actuarial experience loss incurred during the year which ended as of the day before the most recent actuarial valuation date, any unfunded liability due to that loss is to be amortized on a level dollar basis by December 31 of the year occurring 15 years later.

Subd. 2. **Limitation.** Notwithstanding subdivision 1, the amortization period may not exceed the average life expectancy of the remaining members.

**History:** 2000 c 461 art 17 s 5; 2002 c 392 art 1 s 8

**423B.22 [Effective on local approval]**

**NOTE:** As of September 3, 2004, the Minneapolis City Council had not filed with the secretary of state a certificate of approval of section 8 of Laws 2004, chapter 267, article 18. Accordingly, section 8 is not included here. If a certificate is filed before January 4, 2005, the section is effective the day after its filing. If the filing with the secretary of state does not occur before January 4, 2005, the section is disapproved. Minnesota Statutes, section 645.021, subdivision 3. The current filing status may be confirmed by the secretary of state's office.

If approved, the section will read as follows:

"423B.22 Guaranteed pension provision.

Once a pension benefit is properly paid in accordance with this law to any member, the dollar amount of that pension benefit shall not be reduced."