

# FIRES

## CHAPTER 210

### HOUSE BILL NO. 1366

(Representatives Disrud, Severson)

(Senators Andrist, Heitkamp)

### FIREMEN'S ASSOCIATION DUTIES

AN ACT to amend and reenact sections 18-03-01, 18-03-02, 18-03-03, 18-03-04, 18-03-05, 18-03-06, 18-04-01, and 18-04-02 of the North Dakota Century Code, relating to the duties and responsibilities of the North Dakota firemen's association and the filing of annual organization certificates by fire departments.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 18-03-01 of the North Dakota Century Code is amended and reenacted as follows:

**18-03-01. North Dakota firemen's association - How constituted.** The North Dakota firemen's association ~~shall consist~~ consists of the various organized fire departments and fire protection districts within this state, and each fire department, fire protection district, and firefighter within the state is entitled to membership in ~~such~~ the association upon compliance with the constitution and bylaws ~~thereof~~ of the association.

**SECTION 2. AMENDMENT.** Section 18-03-02 of the North Dakota Century Code is amended and reenacted as follows:

**18-03-02. Regional fire Fire schools.** ~~Four or more regional fire~~ Fire schools must be held annually under the direction of the North Dakota firemen's association. The schools must be held at such times and in such places in North Dakota as may be designated by the North Dakota firemen's association ~~at its annual state convention~~ executive board. Fire schools may be held by teleconference, video, or other alternative media.

**SECTION 3. AMENDMENT.** Section 18-03-03 of the North Dakota Century Code is amended and reenacted as follows:

**18-03-03. Secretary Association to report to office of management and budget time and place of school and name of treasurer.** ~~At least thirty days prior to the date of holding any such school,~~ the secretary of the The North Dakota firemen's association shall ~~forward~~ submit to the office of management and budget ~~the name of the place where,~~ and ~~the date when,~~ each regional fire school will be an annual report of all fire schools held in the state. The secretary association also shall furnish to the office of management and budget the name and address of the treasurer of the association.

**SECTION 4. AMENDMENT.** Section 18-03-04 of the North Dakota Century Code is amended and reenacted as follows:

**18-03-04. Association to furnish bond.** The North Dakota firemen's association shall file with the director of the office of management and budget a ~~good and sufficient~~ bond in the penal sum of two thousand dollars conditioned for the faithful disposition of the funds appropriated by the legislative assembly for the use of the association in conducting ~~regional~~ fire schools.

**SECTION 5. AMENDMENT.** Section 18-03-05 of the North Dakota Century Code is amended and reenacted as follows:

**18-03-05. Statement of desired appropriation submitted to office of the budget.** Not later than July first of each year next preceding a regular session of the legislative assembly, the director of the budget shall send to the ~~secretary of the~~ North Dakota firemen's association a suitable blank form to be filled out ~~by such secretary~~ with an itemized statement of the amount of money ~~the secretary considers~~ necessary to promote the efficiency and growth of the different fire departments and fire protection districts of the association and to conduct the ~~regional~~ fire schools to be held during the succeeding biennium under the direction of the association. The ~~secretary~~ association shall return the blanks properly filled out as provided in section 54-44.1-04.

**SECTION 6. AMENDMENT.** Section 18-03-06 of the North Dakota Century Code is amended and reenacted as follows:

**18-03-06. Director of the budget to prepare estimate for firemen's association.** The director of the budget shall include, with its estimates, an estimate of the amounts necessary to be appropriated to promote the efficiency and growth of the different fire departments and fire protection districts of the association and to conduct ~~regional~~ fire schools.

**SECTION 7. AMENDMENT.** Section 18-04-01 of the North Dakota Century Code is amended and reenacted as follows:

**18-04-01. Eligibility for participation in fund created from premium tax on fire insurance companies.** ~~In order to~~ To become eligible for the benefits provided under this chapter, a city, or one or more townships or fire districts, shall maintain therein for a period of at least eight months ~~prior to~~ before the filing of the certificate required under section 18-04-02 an organized fire district or department which:

1. Has been in actual existence for the period ~~herein~~ specified in this section;
2. Has had as a part of its equipment at least one ~~steam, hand, or other~~ fire engine or truck; and
3. Has had a membership of at least fifteen persons. ~~Such~~ The department or district also must be a member of the North Dakota firemen's association in good standing at the time the benefits are paid.
4. Has been in compliance with the requirements to report fires as set forth in section 18-01-06.

Change in a fire department's name, or incorporation into a fire district, must be deemed a waiver of the eight-month waiting period for filing a certificate of existence under section 18-04-02.

**SECTION 8. AMENDMENT.** Section 18-04-02 of the North Dakota Century Code is amended and reenacted as follows:

**18-04-02. City auditor or secretary of rural fire department to file certificate with state fire marshal and commissioner of insurance.** On or before the thirty-first day of October in each year, the auditor or secretary of any city or rural fire department ~~which~~ that has an organized fire department shall ~~make and~~ file with the state fire marshal and with the commissioner of insurance the auditor's or secretary's certificate stating the existence of the fire department, the date of its organization, the number of ~~steam, hand, or other~~ fire engines, hook and ladder trucks, ~~and hose carts in actual use,~~ the number of organized companies in the department, the number of members in each company, and the system of water supply in use by the department, with such other facts as the state fire marshal or commissioner may require.

Approved March 17, 1999  
Filed March 17, 1999

## CHAPTER 211

### HOUSE BILL NO. 1201

(Representatives Drovdal, Lloyd, Warner)  
(Senators Bowman, Lyson, O'Connell)

## RURAL FIRE PROTECTION DISTRICT RELIEF ASSOCIATIONS

AN ACT to create and enact a new subsection to section 18-10-06 of the North Dakota Century Code, relating to powers of rural fire protection districts; and to amend and reenact sections 18-04-07, 18-05-01, 18-05-02, 18-05-03, 18-05-04, 18-05-05, 18-05-06, 18-05-07, 18-05-08, 18-05-09, 18-05-10, 18-05-12, 18-05-13, 28-22-19, subsection 70 of section 40-05-01, 40-46-01, subsection 21 of section 57-15-10, section 57-15-43, and subdivision j of subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to the organization of firefighters relief associations by fire departments and rural fire protection districts.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 18-04-07 of the North Dakota Century Code is amended and reenacted as follows:

**18-04-07. Disbursement of fund by city auditor.** Moneys received by the city auditor under the provisions of this chapter must be disbursed as follows:

1. In a city having a paid fire department, ~~such amount~~ the money must be placed in a fund to be disbursed by the governing body of the municipality in maintaining ~~such the~~ fire department. If the municipality has a duly organized and incorporated ~~firemen's~~ firefighters relief association, the ~~amount~~ money must be disbursed in accordance with section 18-05-04.
2. In a city or rural fire protection district having no paid fire department, ~~such amount~~ the money must be paid over to the treasurer of the fire department, or to the treasurer of each separately organized fire company ~~which that~~ which satisfies the requirements of section 18-04-01 in equal proportions when there ~~are~~ is more than one in the municipality or rural fire protection district, upon the written order of ~~such the~~ the department or companies approved by the governing body of the municipality or rural fire protection district. If the municipality or rural fire protection district has a duly organized and incorporated firefighters relief association, the amount must be disbursed in accordance with section 18-05-04.
3. For the purpose of this section, a nonpaid or volunteer fire department is any department ~~where~~ in which less than fifty percent of the personnel of ~~said~~ the department are full-time regularly salaried firefighters. A volunteer firefighter is a firefighter who does not receive a regular monthly salary though the firefighter may receive compensation for each fire call the firefighter responds to.

**SECTION 2. AMENDMENT.** Section 18-05-01 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-01. Firemen's Firefighters relief association - Where it may be organized.** A ~~firemen's~~ firefighters relief association may be organized in any city ~~which~~ or rural fire protection district that has a ~~paid~~ fire department. In organizing ~~such~~ a firefighters relief association, the procedure provided in chapter 10-33 must be followed.

**SECTION 3. AMENDMENT.** Section 18-05-02 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-02. Control of funds - Derivation of funds.** Through its board of trustees and officers, a ~~firemen's~~ firefighters relief association ~~shall have~~ has full charge, management, and control of the funds provided for in this chapter, which funds must be derived from the following sources:

1. From interest, rents, gifts, or money from other sources; and
2. From funds received from the state ~~of North Dakota~~.

**SECTION 4. AMENDMENT.** Section 18-05-03 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-03. Treasurer of relief association to furnish bond.** Before entering upon the duties of office, the treasurer of every ~~firemen's~~ firefighters relief association shall give a good and sufficient bond to the association conditioned for the faithful discharge of the duties of ~~the office treasurer~~, and for the safekeeping and paying over, according to law, of all moneys ~~which~~ that come into the ~~person's~~ treasurer's hands ~~as such~~ while acting as treasurer.

**SECTION 5. AMENDMENT.** Section 18-05-04 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-04. Apportioning insurance tax received by city or rural fire protection district.** ~~The amount received under section 18-04-05 by the city auditor in a city having or the treasurer of a rural fire protection district with a paid fire department and a duly organized and incorporated firemen's firefighters relief association except as hereinafter provided must be apportioned as follows: shall apportion the amount received under section 18-04-05, so one-half thereof must be of the amount is placed in a fund to be disbursed by the city's or rural fire protection district's governing body in maintaining the fire department; and one-half thereof must be is paid to the treasurer of the firemen's firefighters relief association. Instead of making such apportionment~~ Except, the city's governing body in its discretion may direct the city auditor or the rural fire protection district's board of directors may direct the treasurer to pay all or any portion of the one-half of the amount so received which would otherwise be disbursed in maintaining the fire department to the treasurer of the firemen's firefighters relief association if its financial condition makes such the disposition necessary or advisable.

**SECTION 6. AMENDMENT.** Section 18-05-05 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-05. Disbursement of money received by treasurer of firemen's firefighters relief association.** The amount received by the treasurer of a ~~firemen's~~ firefighters relief association.

firefighters relief association from ~~this~~ the state may be disbursed for the following purposes only:

1. For the maintenance of the association.
2. For pensions to and the relief of sick, injured, and disabled members of any fire department in the municipality or the rural fire protection district and ~~their widows and orphans~~ the members' surviving spouses and children.
3. For the payment of service pensions as provided in section 18-05-06 in ~~such~~ the amounts and in ~~such~~ manner as the association designates in its articles of incorporation and bylaws.

**SECTION 7. AMENDMENT.** Section 18-05-06 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-06. Service pension - Who may receive - Recipient entitled to no further relief from association.**

1. A ~~firemen's~~ firefighters relief association organized under the laws of this state may pay out of any funds received from the state, city, municipality, or ~~from~~ any other source a service pension in ~~such~~ an amount; not exceeding two hundred dollars per month, as may be provided by ~~its~~ the association's bylaws, to each of its members who has retired and who:
  1. a. Has reached the age of fifty years;
  2. b. Has done active duty for twenty years or more as a member of a ~~volunteer, paid, or partially paid and partially volunteer,~~ fire department in the municipality or rural fire protection district in which ~~such~~ the association exists;
  3. c. Has been a member of the ~~firemen's~~ firefighters relief association for at least ten years ~~prior to~~ before the date of ~~the person's~~ retirement; and
  4. d. Complies with any additional conditions as to age, service, and membership ~~which~~ that may be prescribed by the bylaws of the association.
2. ~~No~~ A pension may ~~not~~ be paid to any ~~person~~ individual while ~~the person~~ that individual remains a member of the fire department or rural fire protection district department, and a ~~person~~ an individual who is receiving a service pension is entitled to no other relief from the association. An individual who becomes a member of a firefighters relief association at the time of the formation of the association and who meets all of the requirements of subsection 1, except subdivision c relating to vesting, may receive a retirement benefit under this section if the benefit is actuarially reduced to account for the decreased period of contribution to the fund.

**SECTION 8. AMENDMENT.** Section 18-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-07. Eligibility for service pension may be acquired by paying back assessments.** ~~Any~~ A firefighter who, for the number of years required for retirement, actually has served in a fire department in a municipality or rural fire protection district in which a ~~firemen's~~ firefighters relief association has been organized and who pays into the ~~firemen's~~ firefighters relief and pension fund maintained in ~~such~~ the municipality assessments equal to the amounts assessed against the members of the association during the time of the ~~person's~~ firefighter's service in the department, with interest upon ~~such~~ the assessments, must be allowed membership in the association and ~~shall~~ is entitled to receive, upon retirement, the same pension from the fund as is paid to other firefighters. The bylaws of an association may not contain any provision ~~which~~ that discriminates against a firefighter who actually has worked as ~~such~~ a firefighter during the number of years required by the bylaws or which prevents the ~~person~~ firefighter from, or discriminates against the ~~person~~ firefighter in, participating in the association or in the benefits from the fund. The rights provided for in this chapter are acquired by compliance with this section whether ~~such~~ compliance was accomplished ~~prior~~ before or ~~subsequent to~~ after July 1, 1935, without regard to the time when the required service was performed.

**SECTION 9. AMENDMENT.** Section 18-05-08 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-08. Pensions to be uniform - Reduction or increase in pensions authorized.** All pensions granted in a municipality or rural fire protection district under the provisions of this chapter must be uniform in amount. Every association, however, ~~shall have the right at all times to~~ may reduce or increase the amount of pensions, within the limitations contained in this chapter, whenever the amount of funds on hand or other good reason renders such action advisable.

**SECTION 10. AMENDMENT.** Section 18-05-09 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-09. Who deemed firefighter.** ~~No~~ A substitute firefighter, ~~no~~ a person serving on probation, and ~~no~~ a firefighter in a municipality or rural fire protection district having a relief association in its fire department who is not a member of ~~such~~ the association may not be deemed a firefighter within the meaning of this chapter.

**SECTION 11. AMENDMENT.** Section 18-05-10 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-10. Qualifications as to age and term of service inapplicable to pension for disability.** The qualifications as to age and term of service prescribed by this chapter do not apply to a member of a fire department who makes an application for a pension on account of injuries or disabilities ~~which make the person that result~~ in the firefighter being unfit for to perform the duties of an active firefighter. The relief association shall pay the pension to ~~such~~ those members, or to the ~~widow or orphans~~ surviving spouse or children of a deceased firefighter, in ~~such~~ the amounts and under ~~such~~ the limitations and conditions as its articles of incorporation and bylaws provide and permit. ~~No~~ A pension paid to any one family, however, may not exceed the maximum monthly service pension permitted under this chapter.

**SECTION 12. AMENDMENT.** Section 18-05-12 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-12. Secretary and treasurer of firemen's firefighters relief association to prepare report - Contents - Filing.** The secretary and treasurer of every ~~firemen's~~

firefighters relief association shall prepare annually a report of all the receipts and expenditures of the association for the previous year showing the source of all receipts and for what purpose and to whom any money was paid and expended. ~~Such~~ The report must be filed in the office of the city auditor of the municipality wherein the association is situated or in the case of a rural fire protection district the office of the county auditor of the county in which the rural fire protection district is located, and a duplicate of the report must be filed with the office of management and budget before any money may be paid to ~~any such~~ the relief association.

**SECTION 13. AMENDMENT.** Section 18-05-13 of the North Dakota Century Code is amended and reenacted as follows:

**18-05-13. Audit of books of relief association - Report of unauthorized spending to governor - Duty of governor.** The books and accounts of the secretary and treasurer of each ~~firemen's~~ firefighters relief association receiving funds under the provisions of this chapter must be audited as required by section 54-10-14. If the money, or any part of it, has been or is being expended for unauthorized purposes, the facts must be reported to the governor. Thereupon, the governor shall direct the office of management and budget not to prepare any warrants for the benefits of the fire department or relief association of the municipality in which ~~such the~~ association is organized until it appears to the state auditor, who shall report the fact to the governor, that all moneys wrongfully expended have been replaced. The governor may take such further action as the emergency may demand.

**SECTION 14.** A new subsection to section 18-10-06 of the North Dakota Century Code is created and enacted as follows:

To establish a firefighters relief association under chapter 18-05.

**SECTION 15. AMENDMENT.** Section 28-22-19 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**28-22-19. Exemptions from legal process - Public pensions, assistance, and awards.** The following amounts are exempt from liability for debts of the person to or on account of whom the amounts are paid, and are not subject to seizure upon execution or other process:

1. All pensions or annuities or retirement, disability, death, or other benefits paid or payable by, or amounts received as a return of contributions and interest from, a retirement system established pursuant to state law by the state except as provided by sections 15-39.1-12.2, 39-03.1-14.2, and 54-52-17.6, a state agency, a political subdivision of the state, or a ~~firemen's~~ firefighters relief association for retirement, annuity, pension, disability benefit, or death benefit purposes.
2. All awards made pursuant to chapter 54-23.4 as compensation for victims of crimes.
3. All payments of assistance as aid to dependent children pursuant to chapter 50-09.

<sup>168</sup> **SECTION 16. AMENDMENT.** Subsection 70 of section 40-05-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

70. Employee pension system. To adopt, by ordinance, a city employee pension system ~~which~~ that may provide all rules and regulations governing its operation and discontinuance, provided other pensions systems allowed by statute are not in effect, excepting ~~firemen's~~ firefighters relief associations and federal social security, or in order to consolidate existing pension plans. In addition to all other rules and regulations deemed necessary and proper by the governing body, it may provide as to matters pertaining to membership, tax levies in an amount not exceeding the total levies authorized by chapters 40-45 and 40-46, membership fees and assessments, management, investments, acceptance of money and property, retirement conditions and payment amount, continuance of system and discontinuance procedures, discontinuance payments, entrance into contracts with an insurance firm or firms for coverage of ~~such~~ the employee pension system.

**SECTION 17. AMENDMENT.** Section 40-46-01 of the North Dakota Century Code is amended and reenacted as follows:

**40-46-01. Adoption of employees' pension plan - Exclusion of police and members of ~~firemen's~~ firefighters relief associations.** The provisions of this chapter ~~shall~~ become operative in any city qualified to adopt the same by:

1. The adoption by the governing body of the city of a plan substantially setting forth the provisions of this chapter; and
2. The concurrence in ~~such~~ the plan by the employees of the city by a majority vote thereof.

Thereafter, all employees of the city ~~shall be~~ are bound by the provisions of ~~such~~ the plan without further action by the governing body or by the employees of the city. For ~~the~~ purposes of this chapter, members of the police force of the city ~~shall be~~ are not ~~be~~ considered employees of the city and members of a ~~firemen's~~ firefighters relief association ~~shall be~~ are not ~~be~~ considered employees of the city, if by a majority vote of the members thereof, they exclude themselves.

<sup>169</sup> **SECTION 18. AMENDMENT.** Subsection 21 of section 57-15-10 of the North Dakota Century Code is amended and reenacted as follows:

21. Taxes levied for an organized ~~firemen's~~ firefighters relief association in accordance with section 57-15-43 may be levied in an amount not exceeding one-half of one mill.

**SECTION 19. AMENDMENT.** Section 57-15-43 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>168</sup> Section 40-05-01 was also amended by section 9 of Senate Bill No. 2334, chapter 503.

<sup>169</sup> Section 57-15-10 was also amended by section 73 of House Bill No. 1045, chapter 50, and section 2 of Senate Bill No. 2382, chapter 499.

**57-15-43. Tax levy for city having an organized firemen's firefighters relief association - Limitations - Disbursement.** ~~Any~~ A city having an organized firemen's firefighters relief association as provided for under chapter 18-05, may levy an annual tax not exceeding the limitation in subsection 21 of section 57-15-10 for the purpose of assisting ~~such firemen's~~ the firefighters relief association in providing for the pension and relief provided for by ~~such~~ the association.

On the last day of June and December of each year, the auditor of ~~any a~~ a city covered by this section shall deliver and turn over to the treasurer of ~~any such firemen's~~ the firefighters relief association, having qualified as provided for in chapter 18-05, all moneys collected under this section.

<sup>170</sup> **SECTION 20. AMENDMENT.** Subdivision j of subsection 1 of section 57-38-01.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- j. Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the ~~firemen's~~ firefighters relief associations authorized by chapters 18-05 and 18-11, policemen's pension funds authorized by chapter 40-45, or the highway patrolmen's retirement system authorized by chapter 39-03.1; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.

Approved March 9, 1999  
Filed March 9, 1999

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<sup>170</sup> Section 57-38-01.2 was also amended by section 5 of Senate Bill No. 2009, chapter 31, section 2 of House Bill No. 1106, chapter 487, and section 3 of House Bill No. 1106, chapter 487.

## CHAPTER 212

### SENATE BILL NO. 2347

(Senators Grindberg, C. Nelson, B. Stenehjem)  
(Representatives Berg, Ekstrom)

## ALTERNATE FIREFIGHTERS RELIEF ASSOCIATION BENEFITS

AN ACT to create and enact two new sections to chapter 18-11 of the North Dakota Century Code, relating to alternate firefighters relief association plan benefits; to provide for retroactive application; to provide an expiration date; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 18-11 of the North Dakota Century Code is created and enacted as follows:

**Service pensions - Formulation of optional plan.** With the consent of the governing body of the city involved, and in substitution for a pension payment schedule provided in section 18-11-15, a firefighters relief association may adopt a monthly service pension plan for members of the association as provided in this section.

1. Retirement date is the first day of the month next following the month in which the member attains the age of fifty-five years.
2. Retirement benefits for members reaching the retirement date equal an annual amount, payable monthly, comprised of a service benefit that equals two and thirty-three hundredths percent of a first-class firefighter's salary at the time of the member's retirement multiplied by the number of years of service employment up to a maximum of thirty years.
3. Upon termination of employment after completing ten years of eligible employment but before the retirement date, a member is eligible to receive deferred vested retirement benefits payable commencing on the retirement date equal to one hundred percent of the member's accrued benefits.
4. Members participating in a firefighters relief association paying a monthly service pension to members of the association under this section must serve ten years before they are eligible for a service pension.

**SECTION 2.** A new section to chapter 18-11 of the North Dakota Century Code is created and enacted as follows:

**Optional plan postretirement adjustments.** Upon the recommendation of the association's actuary, a firefighters relief association adopting a monthly service pension plan under section 1 of this Act may implement postretirement adjustments on an actuarially sound basis to pensioners and beneficiaries under the plan.

**SECTION 3. RETROACTIVE APPLICATION OF ACT.** This Act is retroactive to January 1, 1998.

**SECTION 4. EXPIRATION DATE.** Section 2 of this Act is effective through July 31, 2001, and after that date is ineffective.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 22, 1999  
Filed March 22, 1999