

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2204
(Senators Klein, Freborg, Nelson)
(Representatives Brandenburg, Hofstad, Wrangham)

AN ACT to amend and reenact sections 18-05-01, 18-05-04, 18-05-05, 18-05-06, 18-05-07, 18-05-09, 18-05-10, 18-05-12, and 18-05-13 of the North Dakota Century Code, relating to rural fire department firefighters relief associations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-05-01 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 2. 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, rural fire department, or rural fire protection district. The city auditor in a city or the treasurer of a rural fire department or rural fire protection district with a fire department and a firefighters relief association shall apportion the amount received under section 18-04-05, so one-half of the amount is placed in a fund to be disbursed by the city's, rural fire department's, or rural fire protection district's governing body in maintaining the fire department and one-half is paid to the treasurer of the firefighters relief association. Except, the city's governing body may direct the city auditor or the rural fire department or 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 received which would otherwise be disbursed in maintaining the fire department to the treasurer of the firefighters relief association if its financial condition makes the disposition necessary or advisable.

SECTION 3. 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 firefighters relief association. The amount received by the treasurer of a firefighters relief association from 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, rural fire department, or the rural fire protection district and the members' surviving spouses and children.
3. For the payment of service pensions as provided in section 18-05-06 in the amounts and manner the association designates in its articles of incorporation and bylaws.

SECTION 4. 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 firefighters relief association organized under the laws of this state must be an internal revenue service approved plan.
2. A firefighters relief association organized under the laws of this state may pay out of any funds received from the state, city, municipality, or any other source a service pension in an amount as may be provided by the association's bylaws to each of its members who has retired and who:
 - a. Has reached the age of fifty years; and
 - b. ~~Has done active duty for twenty years or more as a member of a fire department in the municipality or rural fire protection district in which the association exists;~~
 - c. ~~Has been a member of the firefighters relief association for at least ten years before the date of retirement; and~~
 - d. ~~Complies with any additional conditions as to age, service, and membership that may be prescribed by the bylaws of the association.~~ Meets all the requirements of the firefighters relief association bylaws.
- ~~2.~~ 3. A pension may not be paid to any individual while that individual remains a member of the fire department, rural fire department, or rural fire protection district department, and 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 5. 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. A firefighter who, for the number of years required for retirement, actually has served in a fire department in a municipality, rural fire department, or rural fire protection district in which a firefighters relief association has been organized and who pays into the firefighters relief and pension fund maintained in the municipality, rural fire department, or rural fire protection district assessments equal to the amounts assessed against the members of the association during the time of the firefighter's service in the department, with interest upon the assessments, must be allowed membership in the association and 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 that discriminates against a firefighter who actually has worked as a firefighter during the number of years required by the bylaws or which prevents the firefighter from, or discriminates against the 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 compliance was accomplished before or after July 1, 1935, without regard to the time when the required service was performed.

SECTION 6. AMENDMENT. Section 18-05-09 of the North Dakota Century Code is amended and reenacted as follows:

18-05-09. Who deemed firefighter. A substitute firefighter, a person serving on probation, and a firefighter in a municipality, rural fire department, or rural fire protection district having a relief association in its fire department who is not a member of the association may not be deemed a firefighter within the meaning of this chapter.

SECTION 7. 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 that result in the firefighter being unfit to perform the duties of an active firefighter. The relief association shall pay the pension to those members, or to the surviving spouse or children of a deceased firefighter, in the amounts and under the limitations and conditions as its articles of incorporation and bylaws provide and permit. A pension paid to any one family, however, may not exceed the maximum monthly service pension permitted under this chapter.

SECTION 8. AMENDMENT. Section 18-05-12 of the North Dakota Century Code is amended and reenacted as follows:

18-05-12. Secretary and treasurer of firefighters relief association to prepare report - Contents - Filing. The secretary and treasurer of every 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. 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 department or rural fire protection district, the office of the county auditor of the county in which the rural fire department or 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 the relief association.

SECTION 9. 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 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, rural fire department, or rural fire protection district in which 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.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2204.

Senate Vote: Yeas 43 Nays 0 Absent 4

House Vote: Yeas 76 Nays 10 Absent 8

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State