

FIRES

CHAPTER 220

HOUSE BILL NO. 1182
(Committee on Political Subdivisions)
(At the request of the Attorney General)

FIRE REPORT FEES

AN ACT to amend and reenact section 18-01-08 of the North Dakota Century Code, relating to the fee paid for fire reports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-01-08 of the North Dakota Century Code is amended and reenacted as follows:

18-01-08. Compensation of fire chiefs and executive officers of municipalities for reporting to fire marshal. There shall be paid to the chief of the fire department and to the auditor of each city, who does not receive fifty dollars or more annually as compensation for his services as such and who is required by this chapter to report fires to the state fire marshal, a fee of one dollar and fifty cents for each fire reported to the satisfaction of the fire marshal. The fire report fee required by this section must be paid only if the fire marshal receives ten or more fire reports annually from a city's fire chief and auditor. Such fees shall be paid at the close of each fiscal year out of funds appropriated for that purpose by the legislative assembly.

Approved April 3, 1991
Filed April 4, 1991

CHAPTER 221

HOUSE BILL NO. 1530
(Representative Laughlin)
(Senator Wogsland)

FIREBREAKS FOR CRP LAND

AN ACT to create and enact a new section to chapter 18-10 of the North Dakota Century Code, relating to firebreaks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 18-10 of the North Dakota Century Code is created and enacted as follows:

Development of firebreaks. The board of directors of a rural fire protection district, with other state and federal agencies, may evaluate the need for firebreaks and ensure that unprotected acreage enrolled in the conservation reserve program is dissected into approximately one hundred sixty acre [64.75 hectare] containment areas for fire control. In developing plans for firebreaks, the board shall make the best possible use of existing natural and artificial barriers, such as lakes, streams, wetlands with water, ponds, clean tilled cropland, gravel pits, and roads. For purposes of this section, a firebreak means a strip of fire retarding vegetation, no less than thirty feet [9.14 meters] nor more than fifty feet [45.72 meters] wide.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 222

SENATE BILL NO. 2348
(Satrom)

FIREFIGHTERS RELIEF ASSOCIATION

AN ACT to amend and reenact sections 18-11-01, 18-11-02, 18-11-03, 18-11-04, 18-11-05, 18-11-07, 18-11-09, 18-11-10, 18-11-11, 18-11-12, 18-11-13, 18-11-14, 18-11-15, 18-11-15.1, 18-11-16, 18-11-17, 18-11-18, 18-11-20, 18-11-21, 18-11-22, and 18-11-23 of the North Dakota Century Code, relating to the alternate firefighters relief association plan; and to repeal section 18-11-08 of the North Dakota Century Code, relating to the report of receipts and expenditures of state funds by a firefighters relief association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-11-01 of the North Dakota Century Code is amended and reenacted as follows:

18-11-01. Alternate ~~firemen's~~ firefighters relief association plan. ~~The provisions of this chapter shall be an~~ An alternate ~~firemen's~~ firefighters retirement and disability plan which may be implemented by a firefighters relief association in lieu of the plan provided for in chapter 18-05. ~~Within sixty days after July 1, 1959~~ Before a relief association may implement the plan provided for in this chapter, a vote ~~shall~~ must be taken among the members of ~~each firemen's~~ that relief association ~~now in existence within the state~~ to determine whether the association ~~shall~~ will adopt the plan authorized by this chapter or retain the plan established in chapter 18-05; ~~however, if~~. If the members of the association vote to adopt the plan authorized by this chapter ~~such~~, that plan ~~shall~~ does not become operative until the city government of the community in which the fire department is located has approved the plan.

SECTION 2. AMENDMENT. Section 18-11-02 of the North Dakota Century Code is amended and reenacted as follows:

18-11-02. Operation of association. The firefighters relief association ~~shall~~ must be organized, operated, and maintained in accordance with its articles of incorporation and its bylaws by ~~firemen~~ firefighters who are members of the fire department. ~~It~~ The relief association may regulate and manage its own affairs and for that purpose has such corporate powers as are necessary and useful, subject to the regulations and restrictions of the laws of this state pertaining to corporations.

SECTION 3. AMENDMENT. Section 18-11-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

18-11-03. "Fireman Firefighter" defined. For purposes of As used in this chapter, the term "~~fireman~~ firefighter" means any person who is regularly entered on the payroll of the department serving on active duty and

engaged in the hazards of firefighting. The term includes a probationary firefighter but does not include ~~a probationary or a substitute fireman firefighter~~ or any person employed irregularly by the fire department. ~~For cities having a population in excess of sixty thousand, the term "fireman" includes probationary firemen.~~

SECTION 4. AMENDMENT. Section 18-11-04 of the North Dakota Century Code is amended and reenacted as follows:

18-11-04. Accrued rights not destroyed by this plan - Transfer of funds - Records. Any fireman firefighter who is a member of the relief association ~~which has been established under chapter 18-05 at July 1, 1959,~~ may continue as a member of the relief association created by this chapter if the department of which ~~he~~ the firefighter is a member has elected to come under the provisions of this chapter, and any member of the relief association established under chapter 18-05 receiving pensions or benefits or widow or children receiving pensions or benefits shall continue to receive such pensions or benefits as are prescribed and being paid under existing association bylaws ~~on July 1, 1959,~~ and any fireman firefighter who is a member of an association maintained under chapter 18-05, and who ~~shall become becomes eligible~~ for full pension under ~~such that~~ association's bylaws ~~shall may~~ not be penalized by any conditions of this chapter. Whenever a department votes to come under the provisions of this chapter, any and all funds or accounts and all other records and property maintained by any relief association being discontinued ~~shall~~ must be transferred to the relief association being established under this chapter.

SECTION 5. AMENDMENT. Section 18-11-05 of the North Dakota Century Code is amended and reenacted as follows:

18-11-05. Application for membership. When any fireman hereafter employed firefighter desires to become a member of the relief association provided by this chapter, ~~he shall make written application therefor within ninety days after the date he is entered on the payroll of the department that firefighter may apply in writing for membership to the association.~~ The application ~~shall~~ must be made on a form supplied by the association, and ~~shall~~ must be accompanied by the certificate of a physician as required by the association's bylaws. The application and certificate ~~shall~~ must be filed with the secretary of the association, with required fees, and thereafter the board of examiners of the association shall make an investigation and file its report ~~thereof~~ concerning the application with the secretary. ~~The association shall act upon an application within ninety days from the date it is filed with the secretary.~~

SECTION 6. AMENDMENT. Section 18-11-07 of the North Dakota Century Code is amended and reenacted as follows:

18-11-07. Officers. The officers of the relief association ~~shall be include~~ a president and a vice president, both of whom ~~shall~~ must be elected from among members of the board of trustees, a secretary-treasurer, a board of trustees, and a finance committee. ~~All such~~ These officers ~~shall~~ must be elected in the manner and for the terms prescribed in ~~its~~ the association's articles of incorporation and bylaws. The board of trustees shall manage the affairs of the association. The secretary-treasurer shall furnish a corporate bond to the association for the faithful performance of ~~his~~ the secretary-treasurer's duties in an amount to be determined by the association. The premium on the bond ~~shall~~ must be paid by the association.

The president and secretary-treasurer may be paid an annual salary not to exceed one-half of one percent of the current monthly salary of a first-class fireman for each member account a fee in an amount as determined by the association.

SECTION 7. AMENDMENT. Section 18-11-09 of the North Dakota Century Code is amended and reenacted as follows:

18-11-09. Apportioning insurance tax received by city. The amount received under section 18-04-05 by the city auditor in a city having that has a paid fire department and a duly organized and incorporated firemen's firefighters relief association shall, except as hereafter provided, must be apportioned as follows: one-half thereof shall must be placed in a fund to be disbursed by the governing body of the city in maintaining the fire department, and one-half thereof shall must be paid to the secretary-treasurer of the firemen's firefighters relief association. In addition, thereto However, the governing body of the city may in its discretion pay all or any portion of the amount normally disbursed in maintaining the fire department to the secretary-treasurer of the firemen's firefighters relief association if its financial condition shall make such makes that disposition necessary or advisable.

SECTION 8. AMENDMENT. Section 18-11-10 of the North Dakota Century Code is amended and reenacted as follows:

18-11-10. City shall make additional Additional city levy. At the time the tax levies for the support of the city are made, and in addition thereto, the governing body of any city which shall have that has adopted this a plan, under this chapter shall also levy a tax on all taxable property within the city sufficient in amount to equal a minimum of eight percent of the current annual salary of a first-class fireman firefighter as last determined and approved by the governing body of the city, for each active member of the fire department relief association at the time the levy is made. This tax shall must be levied notwithstanding the city maximum annual tax levy for all purposes as limited by statute. This tax is in addition to the tax levy as so limited.

SECTION 9. AMENDMENT. Section 18-11-11 of the North Dakota Century Code is amended and reenacted as follows:

18-11-11. Proceeds from levy to be forwarded to association Levy proceeds. Each year in which the levy provided for in section 18-11-10 is made, immediately after April first and September first the proceeds of the levy, together with any interest and penalties collected thereon, shall must be forwarded by the county treasurer to the city auditor, and after certification by the city auditor, the city auditor shall pay over such those amounts to the secretary-treasurer of the firemen's firefighters relief association.

SECTION 10. AMENDMENT. Section 18-11-12 of the North Dakota Century Code is amended and reenacted as follows:

18-11-12. Firemen to contribute to association fund Contribution by firefighters. The officer in charge of the finances of the city shall deduct from the salary of each fireman firefighter participating in the plan provided in this chapter an amount to be determined by the bylaws of the firemen's firefighters relief association but which shall be may not be less

than five percent of the monthly salary of a first-class fireman firefighter, until such firemen those firefighters have completed thirty years' service with the department at which time the amount deducted shall may be decreased to a lesser amount to be prescribed by the bylaws of the relief association, but which shall be may not be less than two and one-half percent of the monthly salary of a first-class fireman firefighter. This amount shall must be paid to the secretary-treasurer of the relief association monthly and shall must be credited by the association to each fireman firefighter individually in the state fund. All moneys paid into city pension funds prior to July 1, 1959, by firemen firefighters participating in the plan provided for in this chapter shall must be paid to the secretary-treasurer of the association and shall be credited by the association to the individual member in the state fund.

SECTION 11. AMENDMENT. Section 18-11-13 of the North Dakota Century Code is amended and reenacted as follows:

18-11-13. Association state fund and association general fund - Expenditures - Investment. The moneys received by the association are to must be kept in an "a fund known as the association state fund" or in an "association general fund". The moneys received from the state, city, or employee's salary contribution shall must be deposited in the "association state fund" and may be expended only for the purposes named set forth in section 18-11-14. All other moneys shall be deposited in the "association general fund" and may be expended for other purposes related to the general principles for which this chapter is established. The relief association shall manage and control all funds moneys that come into its possession. Moneys in these funds the fund may be invested in bonds of the United States of America, bonds of the state of North Dakota or any other state, in certificates of indebtedness of the state of North Dakota, in any bonds or certificates of indebtedness of any political subdivision of the state of North Dakota which constitute the general obligations of the issuing tax authority, or the Bank of North Dakota or any other bank or savings and loan association which is insured by the United States of America. The board may also invest all or part of the moneys in these funds the fund in other investments by selecting a funding agent or agents and establish an investment agreement contract regarding such funds. The contract shall must authorize the funding agent or agents to hold and invest such funds those moneys for the board and such funds. The moneys invested shall must be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed.

SECTION 12. AMENDMENT. Section 18-11-14 of the North Dakota Century Code is amended and reenacted as follows:

18-11-14. Disbursement of moneys from association state fund. The amounts paid into the relief association by the state, city, and employee's salary contribution and set aside in the "association state fund" shall must be appropriated and disbursed only for:

1. The payment of disability or service pensions to members of the association;
2. Pensions to widows and children or orphans of members or retired members;

3. The payment of the salary fees of the president and secretary-treasurer and the premiums on his the bond of the secretary-treasurer or any other officer;
4. Funeral payments;
5. Cost of the state audit;
6. Essential postage, office supplies, and equipment;
7. Actuarial study; ~~and~~
8. Return of contributions to those qualified under section 18-11-20;
9. Investment contract fees;
10. Legal and accounting fees;
11. The indemnification of members of the board of trustees pursuant to section 18-11-18; and
12. Any other expenditures related to the general principles for which this chapter is established.

SECTION 13. AMENDMENT. Section 18-11-15 of the North Dakota Century Code is amended and reenacted as follows:

18-11-15. Service pensions - Qualifications.

1. A monthly service pension ~~shall~~ must be paid to members of the association with the following qualifications:

Years of service	Years of age at retirement	Percent of first-class fireman's firefighter's monthly salary on January first during year the pension is paid
20	50	40%
21	51	42%
22	52	44%
23	53	46%
24	54	48%
25	55	50%
26	56	52%
27	57	54%
28	58	56%
29	59	58%
30	60	60%

2. All members must serve twenty years before they ~~shall be~~ are eligible for a service pension; ~~however.~~ However, any member who has twenty years of service and who has not attained retirement age ~~shall have the right to may~~ retire from the department without forfeiting ~~his the~~ right to a service pension. The association, in its bylaws, may establish a retirement age of not less than fifty years, at which time the service pension shall become payable. ~~Such~~ This retirement age may be established for all ~~firemen~~ firefighters or classes of ~~firemen~~ firefighters by birth dates. A person who has served twenty years or more and who is separated

from service ~~shall~~ must, upon application, be placed on the deferred pension roll of the association, and after ~~he has reached~~ reaching retirement age, the association shall, upon application therefor, pay ~~his the~~ service pension from the date ~~he the~~ member attains eligibility at a rate of forty percent of the monthly salary of a first-class ~~fireman~~ firefighter as determined on January first of the year in which the pension is paid. Any person making such application ~~thereby~~ waives all other rights, claims, or demands against the association for any cause, except those causes that may have arisen from, or that may be attributable to, ~~his the~~ person's service on the fire department.

3. With the consent of the governing body of the municipality city involved, and in substitution for the pension payment schedule ~~set out provided~~ in subsection 1, a ~~firemen's~~ firefighters relief association shall pay a monthly service pension to members of the association with the following qualifications, the following amounts:

Years of service	Years of age	Percent of first-class <u>fireman's</u> <u>firefighter's</u> monthly salary on January first during year the pension is paid
20	50	40%
21	51	42%
22	52	44%
23	53	46%
24	54	48%
25	55	50%
26	56	52%
27	57	54%
28	58	56%
29	59	58%
30	60	60%

SECTION 14. AMENDMENT. Section 18-11-15.1 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

18-11-15.1. Purchase of legislative service credit. A member may, prior to retirement, purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while employed as a fireman firefighter under this chapter. The member shall pay for this service credit an amount equal to the required member assessments and the employer contributions for that period of time plus interest as established by the board of trustees of the association. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

SECTION 15. AMENDMENT. Section 18-11-16 of the North Dakota Century Code is amended and reenacted as follows:

18-11-16. Disability pensions - Qualifications. Any member of the relief association who is unable because of physical or mental disability, to perform the duties of a fireman firefighter shall receive monthly a

disability pension equal to fifty percent of the monthly salary of a first-class ~~fireman~~ firefighter on January first of the year that the pension is being paid, unless ~~such~~ that member is eligible for a larger service pension in which case ~~he~~ the member shall draw an amount equal to ~~his~~ the member's service pension. No member shall receive a disability pension unless ~~he~~ the member is disabled for a period of at least seven consecutive days, at which time ~~he~~ shall ~~the member~~ must be paid from the time of disability. However, ~~no~~ a member shall may not receive a disability pension for the days ~~he~~ the member was reimbursed by the city for accumulated sick leave.

SECTION 16. AMENDMENT. Section 18-11-17 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

18-11-17. Pensions to surviving spouses and children of deceased members. When a service pensioner, disability pensioner, deferred pensioner, or an active member of a relief association dies leaving: a surviving spouse to whom the deceased was married while an active member of the association, a child or children who were living while the deceased was on the payroll of the fire department or who were born within nine months after ~~said~~ the decedent was withdrawn from the payroll of ~~said~~ that fire department, or both such surviving spouse and such children, then such surviving spouse and children ~~shall be~~ are entitled to a monthly pension as follows:

1. If the deceased leaves only a surviving spouse, a pension in the sum of forty percent of a first-class ~~fireman's~~ firefighter's monthly salary on January first during year the pension is paid to the surviving spouse, during such spouse's natural life or until such spouse remarries.
2. If the deceased leaves both a surviving spouse and children, a monthly pension to the surviving spouse in the sum of forty percent of a first-class ~~fireman's~~ firefighter's monthly salary on January first during year the pension is paid, for the rest of the surviving spouse's natural life or until such spouse remarries, and to the parent or guardian of any children under the age of eighteen years of age there ~~shall~~ must be paid monthly twenty percent of a first-class ~~fireman's~~ firefighter's monthly salary to be divided equally among such children.
3. If the deceased leaves only children, a monthly pension ~~shall~~ must be paid to the guardian of such child or children for such child or children in the sum of sixty percent of a first-class ~~fireman's~~ firefighter's monthly salary on January first during the year the pension is paid, to be divided equally among such children; provided, however, that if there is only one surviving child, ~~he~~ that child shall receive a sum equal to forty percent of a first-class ~~fireman's~~ firefighter's monthly salary. All pensions to child or children shall terminate when the child or children reaches the age of eighteen years.
4. As used in this section, the term "child" means:
 - a. The natural or adopted child of a firefighter; or
 - b. The natural or adopted child of a firefighter's surviving spouse or former spouse who is designated in writing by the

firefighter as a child beneficiary under this section on a form supplied by the relief association.

SECTION 17. AMENDMENT. Section 18-11-18 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

18-11-18. Reduction in benefits if funds not sufficient. If at any time the relief association's actuary certifies that the balance of the association's fund, together with future contributions by active members and contributions by the state, or the city, or both, and earnings thereon, will be inadequate to provide future prescribed benefits for active and inactive members and their beneficiaries, the board of trustees of the association, by majority vote, may decrease the benefits provided for in sections 18-11-15, 18-11-16, and 18-11-17 in accordance with actuarial recommendations to assure the solvency of the fund and subject to the following conditions:

1. The benefit for existing and future retirees and pension recipients may not be less than the benefit paid in the previous calendar year to an existing retiree of similar status.
2. The reduction must be based upon actuarial recommendations which take into consideration pension benefit standards for similarly funded plans.
3. When the balance of the association's state fund, together with future contributions by active members, and contributions by the state, or the city, or both, and earnings thereon, are sufficient to provide future prescribed benefits for active and inactive members and their beneficiaries, benefits shall again be paid as prescribed by sections 18-11-15, 18-11-16, and 18-11-17. Such if such action may be taken only is recommended after actuarial study and recommendations which are and the action is approved by a majority vote of the board of trustees of the association.

Decisions of the board of trustees, made in good faith and based upon actuarial recommendations with respect to benefit adjustments under this section, are final and supersede any previous actions or bylaws of the association. The members of the board of trustees must be indemnified from the funds of the association for any claims or expenses of defending claims arising from decisions made in good faith and based upon actuarial recommendations under this section.

SECTION 18. AMENDMENT. Section 18-11-20 of the North Dakota Century Code is amended and reenacted as follows:

18-11-20. Members withdrawing from association - Members in military service. Each association shall adopt bylaws and regulations providing that in the event any member withdraws from employment in the department or ceases to be a member of the association, whether by death or otherwise, he shall be the member is entitled to a return of an amount which is not less than fifty percent nor more than one hundred percent of his the member's contributions paid to the association without interest. Any benefits already received by such person shall that member must be deducted from the amount which would be returned to him the member. Any applicant for a service pension who, subsequently to his entry into the service of such fire department, has served in the military forces of the United States, shall may not have the period of such that military service deducted in the computation of the

period of service herein provided for, but ~~such~~ that military service ~~shall~~ must be construed and counted as a part and portion of ~~his~~ the member's active duty in ~~said~~ that fire department, ~~provided, however.~~ However, that credit for ~~such~~ military service ~~shall~~ may not exceed five years. Any such member, who was a full-time regular ~~fireman~~ firefighter at the time of ~~his~~ the member's entry into the armed services and who seeks credit for ~~such~~ that military service, shall, upon ~~his~~ return to employment in the fire department, pay into the pension fund for each year of military service the same amount of money as ~~he~~ the member would have contributed from ~~his~~ the member's salary had ~~he~~ the member been in the continuous employment of the department.

SECTION 19. AMENDMENT. Section 18-11-21 of the North Dakota Century Code is amended and reenacted as follows:

18-11-21. Money received under pension not subject to legal process - Assignments. Payments made or to be made by a ~~firemen's~~ firefighters relief association to any member of the pension roll ~~shall is~~ not be subject to judgment, garnishment, execution, or other legal process. Persons entitled to such payments ~~shall do~~ not have the right to assign the same, and the association ~~shall have no authority to may not~~ recognize any assignment or to pay over any sum which has been assigned.

SECTION 20. AMENDMENT. Section 18-11-22 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

18-11-22. Examination of relief association records - Report of unauthorized spending to governor - Duty of governor. The books and accounts of the secretary-treasurer of each ~~firemen's~~ firefighters relief association receiving funds under the provisions of this chapter must be examined pursuant to section 54-10-14. If the audit report discloses that the money, or any part of it, has been or is being expended for unauthorized purposes, the state auditor shall report the facts to the governor. Thereupon, the governor shall direct the state auditor to refuse to issue any warrants for the benefit of the fire department or relief association of the municipality in which such association is organized until it ~~shall be made to appear~~ 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 21. AMENDMENT. Section 18-11-23 of the North Dakota Century Code is amended and reenacted as follows:

18-11-23. Funeral benefits. The bylaws of the relief association shall provide for funeral benefits for its active or retired members not to exceed for each funeral twice the monthly salary of a first-class ~~fireman~~ firefighter on January first of the year in which the member dies.

SECTION 22. REPEAL. Section 18-11-08 of the North Dakota Century Code is repealed.

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