

CHAPTER 91

[Senate Bill No. 5590]

VOLUNTEER FIREFIGHTERS—PENSION AND RELIEF FUND

AN ACT Relating to firefighters; amending RCW 41.24.030, 41.24.150, 41.24.160, 41.24.170, 41.24.180, 41.24.010, 41.24.020, 41.24.040, 41.24.050, 41.24.080, 41.24.110, 41.24.140, 41.24.175, 41.24.190, 41.24.200, 41.24.210, 41.24.220, 41.24.230, 41.24.240, 41.24.250, 41.24.290, and 41.24.310; adding new sections to chapter 41.24 RCW; repealing RCW 41.24.031; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 261, Laws of 1945 as last amended by section 4, chapter 296, Laws of 1986 and RCW 41.24.030 are each amended to read as follows:

There is created in the state treasury a trust fund for the benefit of the ~~((firemen))~~ firefighters of the state covered by this chapter, which shall be designated the volunteer ~~((firemen's))~~ firefighters' relief and pension fund and shall consist of:

(1) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.

(2) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording the members of its fire department with protection from death or disability as herein provided as follows:

(a) ~~((Three))~~ Ten dollars for each volunteer or part-paid member of its fire department;

(b) A sum equal to one and one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970.

(3) Where a municipal corporation has elected to make available to the members of its fire department the retirement provisions as herein provided, an annual fee of thirty dollars for each of its ~~((firemen))~~ firefighters electing to enroll therein, ten dollars of which shall be paid by the municipality and twenty dollars of which shall be paid by the ~~((fireman))~~ firefighter.

(4) Forty percent of all moneys received by the state from taxes on fire insurance premiums shall be paid into the state treasury and credited to the fund.

(5) The state investment board, upon request of the state treasurer shall have full power to invest or reinvest such portion of the amounts credited to the fund as is not, in the judgment of the treasurer, required to meet current withdrawals. Such investments ~~((may))~~ shall be made in ~~((such bonds, notes or other obligations now or hereafter authorized as an investment for the funds of the public employees' retirement system))~~ the manner prescribed by RCW 43.84.150 and not otherwise.

(6) All bonds or other obligations purchased according to subsection (5) of this section shall be forthwith placed in the custody of the state treasurer, and he shall collect the principal thereof and interest thereon when due.

The state investment board may sell any of the bonds or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

The interest and proceeds from the sale and redemption of any bonds or other obligations held by the fund shall be credited to and form a part of the fund.

All amounts credited to the fund shall be available for making the payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund.

Sec. 2. Section 15, chapter 261, Laws of 1945 as last amended by section 10, chapter 185, Laws of 1987 and RCW 41.24.150 are each amended to read as follows:

Whenever a ~~((fireman))~~ firefighter serving in any capacity as a member of ~~((his))~~ the firefighter's own fire department subject to the provisions of this chapter becomes physically or mentally disabled, or sick, in consequence or as the result of the performance of his or her duties, so as to be wholly prevented from engaging in each and every duty of his or her regular occupation, business, or profession, he or she shall be paid from the fund monthly, the sum of one thousand ~~((two hundred))~~ six hundred fifty dollars for a period of not to exceed six months, or ~~((forty))~~ fifty-five dollars per day for such period as is part of a month, after which period, if the member is incapacitated to such an extent that he or she is thereby prevented from engaging in any occupation or performing any work for compensation or profit or if the member sustained an injury after October 1, 1978, which resulted in the loss or paralysis of both legs or arms, or one leg and one arm, or total loss of eyesight, but such injury has not prevented the member from engaging in an occupation or performing work for compensation or profit, he or she is entitled to draw from the fund monthly, the sum of ~~((six hundred))~~ eight hundred twenty-five dollars so long as the disability continues, except as hereinafter provided: PROVIDED, That if the member has a wife or husband and/or a child or children unemancipated or under eighteen years of age, he or she is entitled to draw from the fund monthly the additional sums of one hundred ~~((twenty))~~ sixty-five dollars because of the fact of his wife or her husband, and ~~((fifty))~~ seventy dollars because of the fact of each child unemancipated or under eighteen years of age, all to a total maximum amount of one thousand ~~((two hundred))~~ six hundred fifty dollars. The board may at any time reopen the grant of such disability pension if the pensioner is gainfully employed, and may reduce it in the proportion that the annual income from such gainful employment bears to the

annual income received by the pensioner at the time of his disability: PROVIDED, That where a ~~((fireman))~~ firefighter sustains a permanent partial disability the state board may provide that such injured ~~((fireman))~~ firefighter shall receive a lump sum compensation therefor to the same extent as is provided for permanent partial disability under the workers' compensation act under Title 51 RCW in lieu of such monthly disability payments.

Sec. 3. Section 16, chapter 261, Laws of 1945 as last amended by section 2, chapter 163, Laws of 1986 and RCW 41.24.160 are each amended to read as follows:

(1) Whenever a ~~((fireman))~~ firefighter dies as the result of injuries received, or sickness contracted in consequence or as the result of the performance of his or her duties, the board of trustees shall order and direct the payment of the sum of two thousand dollars to his widow or her widower, or if there is no widow or widower, then to his or her dependent child or children, or if there is no dependent child or children, then to his or her parents or either of them, and the sum of ~~((six hundred))~~ eight hundred twenty-five dollars per month to his widow or her widower during his or her life together with the additional monthly sum of ~~((fifty))~~ seventy dollars for each child of the member, unemancipated or under eighteen years of age, dependent upon the member for support at the time of his or her death, to a maximum total of one thousand ~~((two hundred))~~ six hundred fifty dollars per month.

(2) If the widow or widower does not have legal custody of one or more dependent children of the deceased ~~((fireman))~~ firefighter or if, after the death of the ~~((fireman))~~ firefighter, legal custody of such child or children passes from the widow or widower to another person, any payment on account of such child or children not in the legal custody of the widow or widower shall be made to the person or persons having legal custody of such child or children. Such payments on account of such child or children shall be subtracted from the amount to which such widow or widower would have been entitled had such widow or widower had legal custody of all the children and the widow or widower shall receive the remainder after such payments on account of such child or children have been subtracted. If there is no widow or widower, or the widow or widower dies while there are children, unemancipated or under eighteen years of age, then the amount of ~~((six hundred))~~ eight hundred twenty-five dollars per month shall be paid for the youngest or only child together with an additional ~~((fifty))~~ seventy dollars per month for each additional of such children to a maximum of one thousand ~~((two hundred))~~ six hundred fifty dollars per month until they become emancipated or reach the age of eighteen years; and if there are no widow or widower, child, or children entitled thereto, then to his or her parents or either of them the sum of ~~((six hundred))~~ eight hundred twenty-five dollars per month for life, if it is proved to the satisfaction of the board that the parents, or either of them, were dependent on the deceased for their

support at the time of his or her death. In any instance in subsections (1) and (2) of this section, if the widow or widower, child or children, or the parents, or either of them, marries while receiving such pension the person so marrying shall thereafter receive no further pension from the fund.

(3) In the case provided for in this section, the monthly payment provided may be converted in whole or in part into a lump sum payment, not in any case to exceed twelve thousand dollars, equal or proportionate, as the case may be, to the ~~((value of the annuity then remaining, to be fixed and certified by the state insurance commissioner,))~~ actuarial equivalent of the monthly payment in which event the monthly payments shall cease in whole or in part accordingly or proportionately. Such conversion may be made either upon written application to the state board and shall rest in the discretion of the state board; or the state board is authorized to make, and authority is hereby given it to make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due to dependents. Within the rule aforesaid the amount and value of the lump sum payment may be agreed upon between the applicant and the state board. Any person receiving a monthly payment under this section on June 29, 1961, may elect, within two years, to convert such payments into a lump sum payment as provided in this section.

Sec. 4. Section 17, chapter 261, Laws of 1945 as last amended by section 4, chapter 21, Laws of 1981 and RCW 41.24.170 are each amended to read as follows:

Whenever any ~~((fireman))~~ firefighter has been a member and served honorably for a period of ten years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in this state, and which municipality and ~~((fireman))~~ firefighter are enrolled under the retirement provisions, and the ~~((fireman))~~ firefighter has reached the age of sixty-five years, the board of trustees shall order and direct that he be retired and be paid a monthly pension as provided in this section.

Whenever a ~~((fireman))~~ firefighter has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in this state, and he or she has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of twenty-five years, the board of trustees shall order and direct that he or she be retired and such ~~((fireman))~~ firefighter be paid a monthly pension of two hundred dollars from the fund for the balance of ~~((his))~~ that firefighter's life.

Whenever any ~~((fireman))~~ firefighter has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department of any

municipality in this state, and the ~~((fireman))~~ firefighter has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of less than twenty-five years, the board of trustees shall order and direct that he or she be retired and that such ~~((fireman))~~ firefighter shall receive a minimum monthly pension of twenty-five dollars increased by the sum of seven dollars each month for each year the annual fee has been paid, but not to exceed the maximum monthly pension herein provided, for the balance of ~~((his))~~ the firefighter's life.

No pension herein provided may become payable before the sixty-fifth birthday of the ~~((fireman))~~ firefighter, nor for any service less than twenty-five years: PROVIDED, HOWEVER, That:

(1) Any ~~((fireman))~~ firefighter, upon completion of twenty-five years' service and attainment of age sixty, may irrevocably elect, in lieu of the pension to which ~~((he))~~ that firefighter would be entitled hereunder at age sixty-five, to receive for the balance of his or her life a monthly pension equal to sixty percent of such pension.

(2) Any ~~((fireman))~~ firefighter, upon completion of twenty-five years' service and attainment of age sixty-two, may irrevocably elect, in lieu of the pension to which ~~((he))~~ that firefighter would be entitled hereunder at age sixty-five, to receive for the balance of his or her life a monthly pension equal to seventy-five percent of such pension.

(3) Any ~~((fireman))~~ firefighter, upon completion of less than twenty-five years of service shall receive the applicable reduced pension provided below, according to the age at which ~~((he))~~ that firefighter elects to begin to receive the pension. If receipt of the benefits begins at age sixty-five ~~((he))~~ the firefighter shall receive one hundred percent of the reduced benefit; at age sixty-two ~~((he))~~ the firefighter shall receive seventy-five percent of the reduced benefit; and at age sixty ~~((he))~~ the firefighter shall receive sixty percent of the reduced benefit. The reduced benefit shall be computed as follows:

(a) Upon completion of ten years, but less than fifteen years of service, a monthly pension equal to fifteen percent of such pension as ~~((he))~~ the firefighter would have been entitled to receive at age sixty-five after twenty-five years of service;

(b) Upon completion of fifteen years, but less than twenty years of service, a monthly pension equal to thirty percent of such pension as ~~((he))~~ the firefighter would have been entitled to receive at age sixty-five after twenty-five years of service; and

(c) Upon completion of twenty years, but less than twenty-five years of service, a monthly pension equal to sixty percent of such pension as ~~((he))~~ the firefighter would have been entitled to receive at age sixty-five after twenty-five years of service.

~~((4)) Any monthly pension, payable to any fireman, which will not, under the provisions of this section, amount to twenty-five dollars, may be~~

~~converted into a lump sum payment to the value of the annuity then remaining, as fixed and certified by the state insurance commissioner. Such conversion may be made either upon written application to the state board and shall rest at the discretion of the state board, or the state board may make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due. Any person receiving a monthly payment of less than twenty-five dollars at the time of September 1, 1979, may elect, within two years, to convert such payments into a lump sum payment as herein provided:))~~

Sec. 5. Section 1, chapter 26, Laws of 1974 ex. sess. as amended by section 3, chapter 76, Laws of 1975-'76 2nd ex. sess. and RCW 41.24.180 are each amended to read as follows:

The board of trustees of any municipal corporation shall direct payment ~~((in lump sums))~~ from said fund in the following cases:

(1) To any volunteer ~~((fireman))~~ firefighter, upon his or her request, upon attaining the age of sixty-five years, who, for any reason, is not qualified to receive the monthly retirement pension herein provided and who was enrolled in said fund and on whose behalf annual fees for retirement pension were paid, ~~((an))~~ a lump sum amount equal to the amount paid ~~((by himself or herself))~~ into the fund by the firefighter.

(2) ~~((If any fireman dies before attaining the age at which a pension shall be payable to him or her under the provisions of this chapter, there shall be paid to his widow or her widower, or if there be no widow or widower to his or her child or children, or if there be no widow or widower or child or children then to his or her heirs at law as may be determined by the board of trustees or to his or her estate if it be administered and there be no heirs as above determined, an amount equal to the amount paid into said fund by himself or herself:~~

~~((3) If any fireman dies after beginning to receive the pension provided for in this chapter, and before receiving an amount equal to the amount paid by himself or herself and the municipality or municipalities in whose department he or she shall have served, there shall be paid to his widow or her widower, or if there be no widow or widower then to his or her child or children, or if there be no widow or widower or child or children then to his or her heirs at law as may be determined by the board of trustees, or to his or her estate if it be administered and there be no heirs as above determined, an amount equal to the difference between the amount paid into said fund by himself or herself and the municipality or municipalities in whose department he or she shall have served and the amount received by him or her as a pensioner))~~ If any firefighter who has not completed at least ten years of service dies without having requested a lump sum payment under subsection (1) or (4) of this section, there shall be paid to the firefighter's surviving spouse, or if there be no surviving spouse, then to such firefighter's

legal representatives, a lump sum amount equal to the amount paid into the fund by the firefighter. If any firefighter who has completed at least ten years of service dies other than as the result of injuries received or sickness contracted in consequence or as the result of the performance of his or her duties, without having requested a lump sum payment under subsection (1) or (4) of this section and before beginning to receive the monthly pension provided for in this chapter, the firefighter's surviving spouse shall elect to receive either:

(a) A monthly pension computed as provided for in RCW 41.24.170 actuarially adjusted to reflect option 2 of section 6 of this act and further actuarially reduced to reflect the difference in the number of years between the firefighter's age at death and age sixty-five; or

(b) A lump sum amount equal to the amount paid into the fund by the firefighter and the municipality or municipalities in whose department he or she has served.

If there be no such surviving spouse, then there shall be paid to the firefighter's legal representatives a lump sum amount equal to the amount paid into the fund by the firefighter.

(4) If any volunteer ((fireman)) firefighter retires from the fire service before attaining the age of sixty-five years, ((he or she)) the firefighter may make application for the return in a lump sum of the amount paid into ((said)) the fund by himself or herself.

NEW SECTION. Sec. 6. A new section is added to chapter 41.24 RCW to read as follows:

Before beginning to receive the pension provided for in RCW 41.24-.170, the firefighter shall elect, in a writing filed with the state board, to have the pension paid under either option 1 or 2, with option 2 calculated so as to be actuarially equivalent to option 1.

(1) Option 1. A firefighter electing this option shall receive a monthly pension payable throughout the firefighter's life. However, if the firefighter dies before the total pension paid to the firefighter equals the amount paid into the fund, then the balance shall be paid to the firefighter's surviving spouse, or if there be no surviving spouse, then to the firefighter's legal representatives.

(2) Option 2. A firefighter electing this option shall receive a reduced monthly pension, which upon the firefighter's death shall be continued throughout the life of and paid to the firefighter's surviving spouse named in the written election filed with the state board.

NEW SECTION. Sec. 7. A new section is added to chapter 41.24 RCW to read as follows:

Any monthly pension, payable under this chapter, which will not amount to twenty-five dollars may be converted into a lump sum payment equal to the actuarial equivalent of the monthly pension. The conversion may be made either upon written application to the state board and shall

rest at the discretion of the state board; or the state board may make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due. Any person receiving a monthly payment of less than twenty-five dollars at the time of September 1, 1979, may elect, within two years, to convert such payments into a lump sum payment as herein provided.

Sec. 8. Section 1, chapter 261, Laws of 1945 as last amended by section 18, chapter 6, Laws of 1970 ex. sess. and RCW 41.24.010 are each amended to read as follows:

As used in this chapter:

"Municipal corporation" or "municipality" includes any city or town, fire protection district, or any water, irrigation, or other district, authorized by law to afford protection to life and property within its boundaries from fire.

"Fire department" means any regularly organized fire department consisting wholly of volunteer (~~((firemen))~~) firefighters, or any part-paid and part-volunteer fire department duly organized and maintained by any municipality: PROVIDED, That any such municipality wherein a part-paid fire department is maintained may by appropriate legislation permit the full-paid members of its department to come under the provisions of chapter 41.16 RCW.

~~((Firemen))~~ "Firefighter" includes any (~~((fireman))~~) firefighter who is a member of any fire department of any municipality but shall not include full time, paid (~~((fire-fighters))~~) firefighters who are members of the Washington law enforcement officers' and (~~((fire-fighters'))~~) firefighters' retirement system, with respect to periods of service rendered in such capacity.

"Performance of duty" shall be construed to mean and include any work in and about company quarters or any fire station or any other place under the direction or general orders of the chief or other officer having authority to order such member to perform such work; responding to, working at, or returning from an alarm of fire; drill; or any work performed of an emergency nature in accordance with the rules and regulations of the fire department.

"State board" means the state board for volunteer (~~((firemen))~~) firefighters created herein.

"Appropriate legislation" means an ordinance when an ordinance is the means of legislating by any municipality, and resolution in all other cases.

Sec. 9. Section 2, chapter 261, Laws of 1945 and RCW 41.24.020 are each amended to read as follows:

(1) Every municipal corporation maintaining and operating a regularly organized fire department shall make provision by appropriate legislation for the enrollment of every (~~((fireman))~~) firefighter under the relief and compensation provisions of this chapter for the purpose of providing protection

for all its ((firemen)) firefighters and their families from death or disability arising in the performance of their duties as ((firemen)) firefighters: PROVIDED, That nothing herein shall prohibit any municipality from providing such additional protection for relief and compensation, or death benefit as it may deem proper.

(2) Any municipal corporation maintaining and operating a regularly organized fire department may make provision by appropriate legislation whereby any ((fireman)) firefighter may enroll under the pension provisions of this chapter for the purpose of enabling any ((fireman)) firefighter, so electing, to avail himself or herself of the retirement provisions of this chapter.

(3) Every municipal corporation shall make provisions for the collection and payment of the fees as herein provided, and shall continue to make such provisions for all ((firemen)) firefighters who come under this chapter as long as they shall continue to be members of its fire department.

Sec. 10. Section 4, chapter 261, Laws of 1945 and RCW 41.24.040 are each amended to read as follows:

On or before the first day of March of each year, every municipal corporation shall pay such amount as shall be due from it to said fund, together with the amounts collected from the ((firemen)) firefighters of its fire department: PROVIDED, That no ((fireman)) firefighter shall forfeit his or her right to participate in the relief and compensation provisions of this chapter by reason of nonpayment: PROVIDED FURTHER, That no ((fireman)) firefighter shall forfeit his or her right to participate in the retirement provisions of this chapter until after March 1st of such year: AND PROVIDED FURTHER, That where a municipality has failed to pay or remit the annual fees required within the time provided such delinquent payment shall bear interest at the rate of one percent per month from March 1st until paid: AND PROVIDED FURTHER, That where a ((fireman)) firefighter has forfeited his or her right to participate in the retirement provisions of this chapter ((he)) that firefighter may be reinstated so as to participate to the same extent as if all fees had been paid by the payment of all back fees with interest at the rate of one percent per month provided he or she has at all times been otherwise eligible.

Sec. 11. Section 5, chapter 261, Laws of 1945 as amended by section 1, chapter 67, Laws of 1975-'76 2nd ex. sess. and RCW 41.24.050 are each amended to read as follows:

Each municipal corporation shall by appropriate legislation limit the membership of its volunteer fire department to not to exceed twenty-five ((firemen)) firefighters for each one thousand population or fraction thereof: PROVIDED, That any fire department maintaining and operating an emergency first aid and ambulance service requiring emergency medical training under chapter 18.73 RCW shall be permitted to increase its membership by the number of ((firemen)) firefighters obtaining and maintaining

such qualification: PROVIDED FURTHER, That no person serving as an emergency medical technician or first aid vehicle operator under chapter 18.73 RCW shall be permitted to join the law enforcement officers' and ~~((fire fighters'))~~ firefighters' retirement system solely on the basis of such service: PROVIDED FURTHER, That in no case shall the membership of any fire department coming under the provisions of this chapter be limited to less than fifteen ~~((firemen))~~ firefighters.

Sec. 12. Section 8, chapter 261, Laws of 1945 as last amended by section 2, chapter 118, Laws of 1969 and RCW 41.24.080 are each amended to read as follows:

The board of trustees of each municipal corporation shall provide for enrollment of all members of its fire department under the death and disability provisions hereof; receive all applications for the enrollment under the retirement provisions hereof when the municipality has elected to enroll thereunder; provide for disbursements of relief and compensation; determine the eligibility of ~~((firemen))~~ firefighters for pensions; and pass on all claims and direct payment thereof from the volunteer ~~((firemen's))~~ firefighters' relief and pension fund to those entitled thereto. Vouchers shall be issued to the persons entitled thereto by the board. It shall send to the state board, after each meeting, a voucher for each person entitled to payment from the fund, stating the amount of such payment and for what granted, which voucher shall be certified and signed by the chairman and secretary of the board. The state board, after review and approval shall cause a warrant to be issued on the fund for the amount specified and approved on each voucher: PROVIDED, That in pension cases after the applicant's eligibility for pension is verified the state board shall authorize the regular issuance of monthly warrants in payment thereof without further action of the board of trustees of any such municipality.

Sec. 13. Section 11, chapter 261, Laws of 1945 as last amended by section 6, chapter 253, Laws of 1953 and RCW 41.24.110 are each amended to read as follows:

The board shall make provisions for the employment of a regularly licensed practicing physician for the examination of members of fire departments making application for membership. Such appointed physician shall visit and examine all sick and injured ~~((firemen))~~ firefighters, perform such services and operations and render all medical aid and care necessary for the recovery of ~~((firemen))~~ firefighters on account of sickness or disability received while in the performance of duties. Such appointed physician shall be paid his or her fees from said fund but not in excess of the schedule of fees for like services approved by the director of labor and industries under Title 51 RCW. No physician or surgeon, not approved by the board, shall receive or be entitled to any compensation from said fund as the private or attending physician of any ~~((fireman))~~ firefighter. No person shall have any right of action against the board of trustees of said fund for the negligence

of any physician or surgeon employed by it. Any physician employed by the board to attend upon any ((fireman)) firefighter shall report his or her findings in writing to said board.

Sec. 14. Section 14, chapter 261, Laws of 1945 and RCW 41.24.140 are each amended to read as follows:

Said board of trustees shall have the power and authority to ask for the appointment of a guardian whenever and wherever the claim of a ((fireman)) firefighter or his beneficiary would, in the opinion of the board, be best served thereby. The board shall have full power to make and direct the payments herein provided for to any person entitled thereto without the necessity of any guardianship or administration proceedings, when in its judgment, it shall determine it to be for the best interests of the beneficiary.

Sec. 15. Section 1, chapter 9, Laws of 1959 and RCW 41.24.175 are each amended to read as follows:

Payments to persons who are now receiving, or who may hereafter receive any disability or retirement payments under the provisions of chapter 41.24 RCW shall be computed in accordance with the last act enacted by the legislature relative thereto: PROVIDED HOWEVER, That nothing herein contained shall be construed as reducing the amount of any pension to which any ((fireman)) firefighter shall have been eligible to receive under the provisions of section 1, chapter 103, Laws of 1951.

Sec. 16. Section 19, chapter 261, Laws of 1945 as last amended by section 6, chapter 118, Laws of 1969 and RCW 41.24.190 are each amended to read as follows:

The filing of reports of enrollment shall be prima facie evidence of the service of the ((firemen)) firefighters therein listed for the year of such report as to service rendered subsequent to July 6, 1945. Proof of service of ((firemen)) firefighters prior to that date shall be by documentary evidence, or such other evidence reduced to writing and sworn to under oath, as shall be submitted to the state board and certified by it as sufficient.

Sec. 17. Section 20, chapter 261, Laws of 1945 as last amended by section 4, chapter 170, Laws of 1973 1st ex. sess. and RCW 41.24.200 are each amended to read as follows:

The aggregate term of service of any ((fireman)) firefighter need not be continuous nor need it be confined to a single fire department nor a single municipality in this state to entitle such ((fireman)) firefighter to a pension: PROVIDED, That ((he)) the firefighter has been duly enrolled in a fire department of a municipality which has elected to make provisions for the retirement of its ((firemen)) firefighters at the time he or she becomes eligible for such pension as in this chapter provided, and has paid all fees prescribed. To be eligible to the full pension a ((fireman)) firefighter must have an aggregate of twenty-five years service, have made twenty-five annual payments into the fund, and be sixty-five years of age at the time ((he)) the

firefighter commences drawing the pension provided for by this chapter, all of which twenty-five years service must have been in the fire department of a municipality or municipalities which have elected to make provisions for the retirement of its volunteer ((firemen)) firefighters; PROVIDED, HOWEVER, That nothing herein contained shall require any ((fireman)) firefighter having twenty-five years active service to continue as a ((fireman)) firefighter and no ((fireman)) firefighter who has completed twenty-five years of active service for which annual pension fees have been paid and who continues as a ((fireman)) firefighter shall be required to pay any additional annual pension fees.

Sec. 18. Section 21, chapter 261, Laws of 1945 as last amended by section 7, chapter 118, Laws of 1969 and RCW 41.24.210 are each amended to read as follows:

No ((fireman)) firefighter shall receive any disability pension from the fund, or be entitled to receive any relief or compensation for sickness or injuries received in the performance of his or her duties, unless there is filed with the board of trustees a report of accident, which report shall be subscribed to by the claimant, the fire chief, and the authorized attending physician, if there is one. No claim for benefits arising from sickness or injuries incurred in consequence or as a result of the performance of duties shall be allowed by the state board unless there has been filed with it a report of accident within ninety days after its occurrence and a claim based thereon within one year after the occurrence of the accident on which such claim is based. The board may require such other or further evidence as it deems advisable before ordering any relief, compensation, or pension.

Sec. 19. Section 22, chapter 261, Laws of 1945 as last amended by section 4, chapter 76, Laws of 1975-'76 2nd ex. sess. and RCW 41.24.220 are each amended to read as follows:

Whenever any ((fireman)) firefighter becomes disabled or sick in consequence or as the result of the performance of his or her duties by reason of which he or she is confined to any hospital an amount not exceeding the daily ward rate of the hospital shall be allowed and paid from said fund toward such hospital expenses: PROVIDED, That this allowance shall not be in lieu of but in addition to any other allowance in this chapter provided: PROVIDED FURTHER, That costs of surgery, medicine, laboratory fees, x-ray, special therapies, and similar additional costs shall be paid in addition thereto: PROVIDED FURTHER, That when extended treatment, not available in the injured ((fireman's)) firefighter's home area, is required, such ((fireman)) firefighter may be reimbursed for actual mileage to and from the place of extended treatment pursuant to RCW 43.03.060 as now existing or hereafter amended.

Sec. 20. Section 23, chapter 261, Laws 1945 as last amended by section 3, chapter 163, Laws of 1986 and RCW 41.24.230 are each amended to read as follows:

Upon the death of any ((fireman)) firefighter resulting from injuries or sickness in consequence or as the result of the performance of his or her duties, the board of trustees shall authorize the issuance of a voucher for the sum of two thousand dollars, and upon the death of any ((fireman)) firefighter who is receiving any disability pension provided for in this chapter, the board of trustees shall authorize the issuance of a voucher for the sum of five hundred dollars, to help defray the funeral expenses and burial of such ((fireman)) firefighter, which voucher shall be paid in the manner provided for payment of other charges against the fund.

Sec. 21. Section 24, chapter 261, Laws of 1945 as last amended by section 3, chapter 205, Laws of 1979 ex. sess. and RCW 41.24.240 are each amended to read as follows:

The right of any person to any future payment under the provisions of this chapter shall not be transferable or assignable at law or in equity, and none of the moneys paid or payable or the rights existing under this chapter, shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law: PROVIDED, That benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

Nothing in this chapter shall be construed to deprive any ((fireman)) firefighter, eligible to receive a pension hereunder, from receiving a pension under any other act to which ((he)) that firefighter may become eligible by reason of services other than or in addition to his or her services as a ((fireman)) firefighter under this chapter.

Sec. 22. Section 2, chapter 263, Laws of 1955 as amended by section 11, chapter 30, Laws of 1982 1st ex. sess. and RCW 41.24.250 are each amended to read as follows:

There is established a state board for volunteer ((firemen)) firefighters to consist of three members of a fire department covered by this chapter, no two of whom shall be from the same congressional district, to be appointed by the governor to serve overlapping terms of six years. Of members first appointed, one shall be appointed for a term of six years, one for four years, and one for two years. Upon the expiration of a term, a successor shall be appointed by the governor for a term of six years. Any vacancy shall be filled by the governor for the unexpired term. Each member of the state board, before entering on the performance of his or her duties, shall take an

oath that he or she will not knowingly violate or willingly permit the violation of any provision of law applicable to this chapter, which oath shall be filed with the secretary of state.

The board shall not be deemed to be unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts.

Sec. 23. Section 6, chapter 263, Laws of 1955 and RCW 41.24.290 are each amended to read as follows:

The state board shall:

- (1) Generally supervise and control the administration of this chapter;
- (2) Promulgate, amend, or repeal rules and regulations not inconsistent with this chapter for the purpose of effecting a uniform and efficient manner of carrying out the provisions of this chapter and the purposes to be accomplished thereby, and for the government of boards of trustees of the municipalities of this state in the discharge of their functions under this chapter;
- (3) Review any action, and hear and determine any appeal which may be taken from the decision of the board of trustees of any municipality made pursuant to this chapter;
- (4) Take such action as may be necessary to secure compliance of the municipalities governed by this chapter and to provide for the collection of all fees and penalties which are, or may be, due and delinquent from any such municipality;
- (5) Review the action of the board of trustees of any municipality authorizing any pension as provided by this chapter; and authorize the regular issuance of monthly warrants in payment thereof without further action of the board of trustees of such municipality;
- (6) Require periodic reports from the recipient of any benefits under this chapter for the purpose of determining their continued eligibility therefor;
- (7) Maintain such records as may be necessary and proper for the proper maintenance and operation of the volunteer (~~firemen's~~) firefighters' relief and pension fund, including records of the names and addresses of every person enrolled under this chapter, and provide all necessary forms to enable local boards of trustees to effectively carry out their duties as provided by this chapter;
- (8) Compel the taking of testimony from witnesses under oath before the state board, or any member or the secretary thereof, or before the local board of trustees or any member thereof, for the purpose of obtaining evidence, at any time, in connection with any claim or pension pending or authorized for payment. For such purpose the state board shall have the same power of subpoena as prescribed in RCW 51.52.100. Failure of any claimant to appear and give any testimony as herein provided shall suspend

any rights or eligibility to receive payments for the period of such failure to appear and testify;

(9) Appoint a secretary to hold office at the pleasure of the state board, fix ~~((his))~~ the secretary's compensation at such sum as it shall deem appropriate, and prescribe ~~((his))~~ the secretary's duties not otherwise provided by this chapter.

Sec. 24. Section 8, chapter 263, Laws of 1955 as last amended by section 88, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 41.24.310 are each amended to read as follows:

The secretary shall maintain an office at Olympia at a place to be provided, wherein ~~((he))~~ the secretary shall

(1) keep a record of all proceedings of the state board, which shall be public,

(2) maintain a record of all members of the pension fund, including such pertinent information relative thereto as may be required by law or regulation of the state board,

(3) receive and promptly remit to the state treasurer all moneys received for the volunteer ~~((firemen's))~~ firefighters' relief and pension fund,

(4) transmit periodically to the proper state agency for payment all claims payable from the volunteer ~~((firemen's))~~ firefighters' relief and pension fund, stating the amount and purpose of such payment,

(5) certify monthly for payment a list of all persons approved for pensions and the amount to which each is entitled,

(6) perform such other and further duties as shall be prescribed by the state board.

The secretary shall receive such compensation as shall be fixed by the state board, together with travel expenses in carrying out his or her duties authorized by the state board in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

NEW SECTION. Sec. 25. A new section is added to chapter 41.24 RCW to read as follows:

The state actuary shall provide actuarial services for the board.

NEW SECTION. Sec. 26. Section 4, chapter 86, Laws of 1965, section 20, chapter 6, Laws of 1970 ex. sess. and RCW 41.24.031 are each repealed.

NEW SECTION. Sec. 27. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the Senate March 10, 1989.

Passed the House April 6, 1989.

Approved by the Governor April 20, 1989.

Filed in Office of Secretary of State April 20, 1989.