

CHAPTER 261.

[H. B. 43.]

VOLUNTEER FIREMEN'S RELIEF AND PENSION FUND.

AN ACT relating to and creating a fund in the State Treasury to be known as the Volunteer Firemen's Relief and Pension Fund; defining the terms as used in the act; designating the duties of certain officials; providing for the relief and compensation of volunteer firemen injured in the performance of their duties; providing for the retirement of volunteer firemen on pension when municipalities have elected to make provision therefor; creating a board of trustees in each municipality for the maintenance and distribution of said fund; empowering municipalities to limit the membership of volunteer fire departments; and repealing chapter 121, Laws of 1935 (sections 9578-1 to 9578-11, inclusive, of Remington's Revised Statutes, also Pierce's Perpetual Code 773-37 to -57).

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

SECTION 1. As used in this act, the following Definitions. terms shall have the meaning and application as follows:

(a) "Municipal corporation" or "municipality" Municipal corporations. shall be defined as including any city or town, fire protection district, or any water, irrigation or other district, which is now, or which may hereafter be, authorized by law to afford protection to life and property within its boundaries from fire.

(b) "Fire department" Fire department. shall be defined as including any regularly organized fire department consisting wholly of volunteer firemen, or any part-paid and part-volunteer fire department which is now or which hereafter may be duly organized and maintained by any municipality: *Provided*, That any such municipality wherein a part-paid fire department shall be maintained shall have authority by appropriate legislation to permit the full-paid members of its fire department to come under the provisions of the Firemen's Relief and Pension Fund provided for in chapter 39, Laws of 1935, or any amendments thereto.

Firemen.

(c) "Firemen" shall be defined as including any fireman who is a member of any fire department of any municipality as herein defined.

Performance of duty.

(d) "Performance of duty" shall be defined and 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 so order such member to perform such work, shall mean and include 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 said fire department.

Appropriate legislation.

(e) "Appropriate legislation" shall be defined as meaning ordinance when ordinance is the means of legislating by any municipality, and resolution in all other cases.

Municipal corporations shall provide pensions.

SEC. 2. (a) Every municipal corporation maintaining and operating a regularly organized fire department shall make provision by appropriate legislation for the enrollment of every fireman under the relief and compensation provisions of this act for the purpose of providing protection for all its firemen and their families from death or disability arising in the performance of their duties as firemen: *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.

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

(c) 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 who come under this act as long as they shall continue to be members of its fire department.

SEC. 3. There is hereby created in the Treasury of the State of Washington a trust fund for the benefit of the firemen of the State of Washington covered by this act, which fund shall consist of:

Trust fund defined.

(a) All bequests, fees, gifts, emoluments or donations given or paid to said fund.

(b) An annual fee of three dollars (\$3) 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.

(c) 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 twenty-five dollars (\$25) for each of its firemen electing to enroll therein, thirteen dollars (\$13) of which shall be paid by the municipality and twelve dollars (\$12) of which shall be paid by the fireman: *Provided*, That enrollment under the pension provisions of this act and the payment of the fee provided therefor shall include and provide the protection for death and disability without any additional payment.

(d) Ten per cent (10%) of all moneys received by the State of Washington from its tax on fire insurance premiums shall be paid into the State Treasury and credited to the said fund.

(e) It shall be the duty of the State Treasurer to invest such portion of the amounts credited to the fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States, this state, counties, municipalities or of any public utility water or power district: *Provided, however*, That investments in interest-bearing warrants issued against current levies shall be limited

to those obligations where the first outstanding warrant has not been outstanding in excess of two (2) years from the date of its issuance.

(f) Any obligations acquired by the fund may be sold at the market price, but not less than par, plus accrued interest. The interest and proceeds from the sale and redemption of any obligations held by the fund shall be credited to and form a part of the fund.

(g) All amounts credited to the fund shall be available for making the payments required by this act.

(h) The State Treasurer shall make an annual report showing the condition of the fund.

Annual
payments
to fund.

SEC. 4. 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 of its fire department: *Provided*, That no fireman shall forfeit his right to participate in the relief and compensation provisions of this act by reason of non-payment: *Provided further*, That no fireman shall forfeit his right to participate in the retirement provisions of this act until after March first 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 per cent (1%) per month from March first until paid: *And provided further*, That where a fireman has forfeited his right to participate in the retirement provisions of this act he 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 per cent (1%) per month provided he has at all times been otherwise eligible.

SEC. 5. Each municipal corporation shall by appropriate legislation limit the membership of its vol-

unter fire department to not to exceed twenty-five (25) firemen for each one thousand (1,000) population or fraction thereof: *Provided*, That in no case shall the membership of any fire department coming under the provisions of this act be limited to less than fifteen (15) firemen.

Limits of membership.

SEC. 6. In every municipal corporation maintaining a regularly organized fire department there is hereby created and established a Board of Trustees for the administration of this act. Such Board shall consist of the Mayor, City Clerk or Comptroller, and one (1) Councilman of such municipality, the Chief of the Fire Department, and one (1) member of the Fire Department to be elected by the members of such Fire Department for a term of one (1) year and annually thereafter. Where a municipality is governed by a Board, the Chairman, one (1) member of the Board and the Secretary or Clerk thereof shall serve as members of said Board in lieu of the Mayor, Clerk or Comptroller and Councilman.

Board of trustees.

SEC. 7. The Mayor or Chairman of the Board or Commission of any such municipality shall be Chairman of the Board of Trustees, and the Clerk or Comptroller or Secretary of any such municipality, Board or Commission shall be the Secretary-treasurer of the Board of Trustees. The Secretary shall keep a public record of all proceedings, of all receipts and disbursements made by the Board of Trustees and shall make an annual report of its expenses and disbursements with a full list of the beneficiaries of said fund in such municipality, such record to be placed on file in such municipality and a copy filed with the State Auditor. Such forms as shall be necessary for the proper administration of this fund and of making the reports required hereunder shall be provided by the State Auditor.

Chairman.

Records of board.

SEC. 8. It shall be the duty of said Board of Trustees of each municipal corporation to provide for the

Applications
for enroll-
ment.

enrollment of all members of its Fire Department under the death and disability provisions of this act; to receive all applications for enrollment under the retirement provisions of this act when such municipality shall have elected to enroll therein; to provide for disbursements of relief and compensation; to determine the eligibility of firemen for pensions; and to pass on all claims and to direct payment thereof from the Volunteer Firemen's Relief and Pension Fund to those entitled thereto under the terms of this act. Vouchers shall be signed by the Chairman and Secretary of the Board and issued to the persons entitled thereto for the amount of money ordered paid to such persons from said fund by said Board, which vouchers shall state for what purpose such payment is to be made. It shall send to the State Treasurer, after each meeting, a list of all persons entitled to payments from said fund, stating the amount of such payment and for what granted, which list shall be certified and signed by the Chairman and Secretary of said Board, attested under oath. The state officer whose duty it is to issue warrants shall order and direct that a warrant for the amount specified on such voucher be drawn on said fund for the amount thereof.

Meetings
of board.

SEC. 9. Said Board of Trustees shall meet on the call of its Chairman on a regular monthly meeting day when there is business to come before it. The Chairman shall be required to call a meeting on any regular meeting day at the request of any member of the fund or his beneficiary claiming any relief, compensation or pension therefrom.

Powers of
board.

SEC. 10. The Board of Trustees herein, in addition to other powers herein granted, shall have power to compel the attendance of witnesses to testify before it on all matters connected with the operation of this act, and its chairman or any member of said Board may administer oaths to such witnesses; to make all

necessary rules and regulations for its guidance in conformity with the provisions of this act: *Provided, however,* That no compensation or emoluments shall be paid to any member of said Board of Trustees for any duties performed under this act as such trustees.

SEC. 11. The Board shall have the power to make Physician. provisions for the employment of a regularly licensed practicing physician for the examination of members of Fire Departments making application for membership at a fee of three dollars (\$3) for each fireman examined. Such appointed physician shall visit and examine all sick and injured firemen, perform such services and operations and render all medical aid and care necessary for the recovery of firemen on account of sickness or disability received while in the performance of duties. Such appointed physician shall be paid their fees from said fund but not in excess of the schedule of fees for like services approved by the State Medical Aid Board under the Workman's Compensation Act. No other physician or surgeon, not appointed or specifically employed by the Board, shall receive or be entitled to any compensation from said fund as the private or attending physician of any fireman. No person shall have any right of action against the Board of Trustees of said fund for the negligence of any physician or surgeon Report of examination. employed by it. Any physician employed by the Board to attend upon any fireman shall report his findings in writing to said Board.

SEC. 12. The Board shall hear and decide all applications for relief or compensation and pensions under this act, and its decisions on such application shall be final and conclusive and not subject to revision except by the Board. Decisions final.

SEC. 13. A majority of the Board of Trustees shall Quorum. constitute a quorum, and no business shall be transacted when a majority is not present, and no claim

shall be allowed where a majority of the Board has not voted favorably thereon.

Appoint-
ment of
guardian.

SEC. 14. 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 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.

Disability
payments.

SEC. 15. Whenever any fireman serving in any capacity as a member of any Fire Department subject to the provisions of this act shall become physically or mentally disabled, or sick, in consequence of, or as the result of the performance of his duties as in this act defined, so as to be wholly prevented from engaging in each and every duty of his regular occupation, business or profession, he shall be paid from said fund monthly, the sum of one hundred fifty dollars (\$150) for a period of not to exceed six (6) months, after which period of disability, if the member is incapacitated to such an extent that he is thereby prevented from engaging in any occupation or performing any work for compensation or profit, he shall be entitled to draw from said fund an amount monthly of seventy-five dollars (\$75) as long as such disability continues. At any time the Board may reopen the grant of such disability pension if the pensioner is gainfully employed, and may reduce the same in the proportion that the income from such gainful employment shall bear to the income derived by such pensioner at the time of such disability.

SEC. 16. Whenever any fireman shall die as the result of injuries received, or sickness contracted,

while in the performance of his duties as herein defined, the Board of Trustees shall order and direct the payment of the sum of fifty dollars (\$50) per month to his widow during her life; or, if there be no widow, or such widow shall die while there are minor children as herein provided, then to his minor child or children until they shall reach the age of eighteen (18) years; and if there be no widow, child or children entitled thereto, then to his parents or either of them, if it be proven to the satisfaction of the Board of Trustees that said parents, or either of them, were dependent on said son for their support at the time of his death: *Provided*, That such widow, child or children of said parents, or either of them, shall marry while receiving such pension such person so marrying shall thereafter receive no further pension from said fund.

Death
benefits.

SEC. 17. Whenever any fireman, at the time of the taking effect of this act, shall have been a member of, and served honorably for a period of twenty-five (25) 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 shall have enrolled within three (3) years after the effective date of this act as herein provided, and shall have reached the age of sixty-five (65) years, the Board of Trustees of such municipal corporation shall be empowered to order and direct that such firemen shall be paid a monthly pension of fourteen dollars (\$14) from said fund. Whenever any fireman, at the time of taking effect of this act or thereafter, shall have been a member of and served honorably for a period of twenty-five (25) 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 annual fee herein provided shall have been paid for a period of twenty-five (25) years, the Board of Trustees of such municipal corporation shall

Retirement
payments.

order and direct that such fireman shall be paid a monthly pension of forty dollars (\$40) from said fund upon such fireman attaining the age of sixty-five (65) years and for the balance of his life. Whenever any fireman at the time of taking effect of this act or thereafter, shall have been a member of and served honorably for a period of twenty-five (25) 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 annual fee herein provided shall have been paid for a period of less than twenty-five (25) years by reason of the fact that part of such service was rendered prior to the effective date of this act, the Board of Trustees of such municipal corporation shall order and direct that such fireman shall receive the minimum monthly pension herein provided increased by the sum of one dollar (\$1) each month for each year the annual fee herein provided shall have been paid, but not to exceed the maximum monthly pension herein provided, upon such fireman attaining the age of sixty-five (65) years and for the balance of his life. No pension herein provided shall become payable before the sixty-fifth (65th) birthday of the fireman. No pension herein provided shall be payable for any service less than twenty-five (25) years.

Retirement
payments.

Lump sum
payments.

SEC. 18. The Board of Trustees of any municipal corporation shall direct payment in lump sums from said fund in the following cases:

(a) To any volunteer fireman, upon attaining the age of sixty-five (65) 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 amount equal to the amount paid by himself and the municipality or municipalities in whose department he shall have served: *Provided, however,* That this provision shall not be construed as depriving any active fire-

man from completing the requisite number of years of active service after attaining the age of sixty-five (65) years as may be necessary to entitle him to the pension as herein provided.

(b) If any fireman dies before attaining the age at which a pension shall be payable to him under the provisions of this act, there shall be paid to his widow, or if there be no widow to his child or children, or if there be no widow or child or children then to his heirs at law as may be determined by the Board of Trustees or to his 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 and the municipality or municipalities in whose department he shall have served. Payments to widow.

(c) If any fireman dies after beginning to receive the pension provided for in this act, and before receiving an amount equal to the amount paid by himself and the municipality or municipalities in whose department he shall have served, there shall be paid to his widow, or if there be no widow then to his child or children, or if there be no widow or child or children then to his heirs at law as may be determined by the Board of Trustees, or to his 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 and the municipality or municipalities in whose department he shall have served and the amount received by him as a pensioner. Payment to heirs.

(d) If any volunteer fireman retires from the fire service before attaining the age of sixty-five (65) years, he may make application for the return of the amount paid into said fund by himself and for the return to the municipality of the amount paid into said fund on his behalf: *Provided, however,* That only the amount paid in by said municipalities in excess of the three dollars (\$3) annually paid into said Return of payments.

fund for death or disability shall be refunded in the instances provided for in this section.

Proof of service.

SEC. 19. The filing of reports of enrollment provided for by this act shall be *prima facie* evidence of the service of the firemen therein listed for the year of such report as to service rendered subsequent to the enactment of this act. Proof of service of firemen prior to the enactment of this act shall be by documentary evidence, or such other evidence reduced to writing and sworn to under oath, as shall be submitted to the Board of Trustees and certified by it as sufficient: *Provided*, That such proof of service must be submitted within three (3) years from the effective date of this act.

Aggregate service.

SEC. 20. The aggregate term of service of any fireman 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 to pension: *Provided*, That he shall have been duly enrolled in a Fire Department of a municipality which shall have elected to make provisions for the retirement of its firemen at the time he becomes eligible for such pension as in this act provided, and shall have paid all fees provided. To be eligible to the full pension a fireman shall have had an aggregate of twenty-five (25) years service, shall have made twenty-five (25) annual payments into the fund, and shall be at least sixty-five (65) years of age at the time of his retirement, all of which 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.

Certificate of disability.

SEC. 21. No fireman shall receive any pension from said fund, or be entitled to receive any relief or compensation for sickness or injuries received in the performance of his duties, unless there shall be filed with the Board of Trustees a certificate of disability or of tenure, which certificate shall be sub-

scribed and sworn to by the claimant, or member of the Board of Trustees, and in case of sickness or disability by the duly appointed or authorized attending physician, if there be one. The Board may require such other or further evidence as it may deem advisable before ordering any relief, compensation or pension.

SEC. 22. Whenever any fireman shall become disabled or sick in the performance of his duties by reason of which he shall be confined to any hospital, an amount not exceeding thirty dollars (\$30) weekly, or a proportional amount for less than a whole week, shall be allowed and paid from said fund toward such hospital expenses for a period not exceeding twenty-six (26) weeks: *Provided*, That this allowance shall not be in lieu of but in addition to any other allowance in this act provided: *And further provided*, That costs of surgery and similar additional costs shall be paid in addition thereto in an amount equivalent to that allowed under the Industrial Insurance Act.

Disability
payments.

SEC. 23. Upon the death of any fireman resulting from injuries or sickness while in the performance of his duties, or while receiving any pension provided for in this act, the Board of Trustees shall authorize the issuance of a voucher for the sum of one hundred dollars (\$100) to help defray the funeral expenses and burial of such fireman, which voucher shall be paid in the manner provided for payment of other charges against said fund.

Death from
injuries or
sickness.

SEC. 24. The right of any person to any future payment under the provisions of this act 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 act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Rights not
assignable.

Relief and
pension
fund.

SEC. 25. All moneys now in, or which shall hereafter be payable to, the Volunteer Firemen's Relief and Compensation Fund, are hereby transferred to, and shall hereafter be payable to, the Volunteer Firemen's Relief and Pension Fund, which is created as, and shall be a trust fund for the benefit of the firemen of the State of Washington as in this act provided, and the Volunteer Firemen's Relief and Compensation Fund is hereby abolished.

Partial
invalidity.

SEC. 26. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, clause and phrase thereof irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Acts
repealed.

SEC. 27. Chapter 121, Laws of 1935 (sections 9578-1 to 9578-11, inclusive, Remington's Revised Statutes, also Pierce's Perpetual Code 773-37 to -57), is hereby repealed: *Provided*, That such repeal shall not be construed as affecting any act done or right acquired, or obligation incurred, or proceedings had or pending, under said act repealed, but the same shall be continued and prosecuted as though such act had not been repealed.

Passed the House February 14, 1945.

Passed the Senate March 6, 1945.

Approved by the Governor March 19, 1945.