

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2204

Introduced by

Senators Klein, Freborg, Nelson

Representatives Brandenburg, Hofstad, Wrangham

1 A BILL for an Act to amend and reenact sections 18-05-01, 18-05-04, 18-05-05, 18-05-06,
2 18-05-07, 18-05-09, 18-05-10, 18-05-12, and 18-05-13 of the North Dakota Century Code,
3 relating to rural fire department firefighters relief associations.

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

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

7 **18-05-01. Firefighters relief association - Where it may be organized.** A firefighters
8 relief association may be organized in any city, rural fire department, or rural fire protection
9 district that has a fire department. In organizing a firefighters relief association, the procedure
10 provided in chapter 10-33 must be followed.

11 **SECTION 2. AMENDMENT.** Section 18-05-04 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **18-05-04. Apportioning insurance tax received by city, rural fire department, or**
14 **rural fire protection district.** The city auditor in a city or the treasurer of a rural fire
15 department or rural fire protection district with a fire department and a firefighters relief
16 association shall apportion the amount received under section 18-04-05, so one-half of the
17 amount is placed in a fund to be disbursed by the city's, rural fire department's, or rural fire
18 protection district's governing body in maintaining the fire department and one-half is paid to the
19 treasurer of the firefighters relief association. Except, the city's governing body may direct the
20 city auditor or the rural fire department or rural fire protection district's board of directors may
21 direct the treasurer to pay all or any portion of the one-half of the amount received which would
22 otherwise be disbursed in maintaining the fire department to the treasurer of the firefighters
23 relief association if its financial condition makes the disposition necessary or advisable.

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

3 **18-05-05. Disbursement of money received by treasurer of firefighters relief**
4 **association.** The amount received by the treasurer of a firefighters relief association from the
5 state may be disbursed for the following purposes only:

- 6 1. For the maintenance of the association.
- 7 2. For pensions to and the relief of sick, injured, and disabled members of any fire
8 department in the municipality, rural fire department, or the rural fire protection
9 district and the members' surviving spouses and children.
- 10 3. For the payment of service pensions as provided in section 18-05-06 in the
11 amounts and manner the association designates in its articles of incorporation and
12 bylaws.

13 **SECTION 4. AMENDMENT.** Section 18-05-06 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **18-05-06. Service pension - Who may receive - Recipient entitled to no further**
16 **relief from association.**

- 17 1. A firefighters relief association organized under the laws of this state must be an
18 internal revenue service approved plan.
- 19 2. A firefighters relief association organized under the laws of this state may pay out
20 of any funds received from the state, city, municipality, or any other source a
21 service pension in an amount as may be provided by the association's bylaws to
22 each of its members who has retired and who:
 - 23 a. Has reached the age of fifty years; and
 - 24 b. ~~Has done active duty for twenty years or more as a member of a fire~~
25 ~~department in the municipality or rural fire protection district in which the~~
26 ~~association exists;~~
 - 27 c. ~~Has been a member of the firefighters relief association for at least ten years~~
28 ~~before the date of retirement; and~~
 - 29 d. ~~Complies with any additional conditions as to age, service, and membership~~
30 ~~that may be prescribed by the bylaws of the association.~~ Meets all the
31 requirements of the firefighters relief association bylaws.

1 ~~2- 3.~~ A pension may not be paid to any individual while that individual remains a
2 member of the fire department, rural fire department, or rural fire protection district
3 department, and an individual who is receiving a service pension is entitled to no
4 other relief from the association. ~~An individual who becomes a member of a~~
5 ~~firefighters relief association at the time of the formation of the association and who~~
6 ~~meets all of the requirements of subsection 1, except subdivision c relating to~~
7 ~~vesting, may receive a retirement benefit under this section if the benefit is~~
8 ~~actuarially reduced to account for the decreased period of contribution to the fund.~~

9 **SECTION 5. AMENDMENT.** Section 18-05-07 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **18-05-07. Eligibility for service pension may be acquired by paying back**
12 **assessments.** A firefighter who, for the number of years required for retirement, actually has
13 served in a fire department in a municipality, rural fire department, or rural fire protection district
14 in which a firefighters relief association has been organized and who pays into the firefighters
15 relief and pension fund maintained in the municipality, rural fire department, or rural fire
16 protection district assessments equal to the amounts assessed against the members of the
17 association during the time of the firefighter's service in the department, with interest upon the
18 assessments, must be allowed membership in the association and is entitled to receive, upon
19 retirement, the same pension from the fund as is paid to other firefighters. The bylaws of an
20 association may not contain any provision that discriminates against a firefighter who actually
21 has worked as a firefighter during the number of years required by the bylaws or which prevents
22 the firefighter from, or discriminates against the firefighter in, participating in the association or
23 in the benefits from the fund. The rights provided for in this chapter are acquired by compliance
24 with this section whether compliance was accomplished before or after July 1, 1935, without
25 regard to the time when the required service was performed.

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

28 **18-05-09. Who deemed firefighter.** A substitute firefighter, a person serving on
29 probation, and a firefighter in a municipality, rural fire department, or rural fire protection district
30 having a relief association in its fire department who is not a member of the association may not
31 be deemed a firefighter within the meaning of this chapter.

1 **SECTION 7. AMENDMENT.** Section 18-05-10 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **18-05-10. Qualifications as to age and term of service inapplicable to pension for**
4 **disability.** The qualifications as to age ~~and term of service~~ prescribed by this chapter do not
5 apply to a member of a fire department who makes an application for a pension on account of
6 injuries or disabilities that result in the firefighter being unfit to perform the duties of an active
7 firefighter. The relief association shall pay the pension to those members, or to the surviving
8 spouse or children of a deceased firefighter, in the amounts and under the limitations and
9 conditions as its articles of incorporation and bylaws provide and permit. A pension paid to any
10 one family, however, may not exceed the maximum monthly service pension permitted under
11 this chapter.

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

14 **18-05-12. Secretary and treasurer of firefighters relief association to prepare**
15 **report - Contents - Filing.** The secretary and treasurer of every firefighters relief association
16 shall prepare annually a report of all the receipts and expenditures of the association for the
17 previous year showing the source of all receipts and for what purpose and to whom any money
18 was paid and expended. The report must be filed in the office of the city auditor of the
19 municipality wherein the association is situated or in the case of a rural fire department or rural
20 fire protection district, the office of the county auditor of the county in which the rural fire
21 department or rural fire protection district is located, and a duplicate of the report must be filed
22 with the office of management and budget before any money may be paid to the relief
23 association.

24 **SECTION 9. AMENDMENT.** Section 18-05-13 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **18-05-13. Audit of books of relief association - Report of unauthorized spending**
27 **to governor - Duty of governor.** The books and accounts of the secretary and treasurer of
28 each firefighters relief association receiving funds under the provisions of this chapter must be
29 audited as required by section 54-10-14. If the money, or any part of it, has been or is being
30 expended for unauthorized purposes, the facts must be reported to the governor. Thereupon,
31 the governor shall direct the office of management and budget not to prepare any warrants for

Sixty-first
Legislative Assembly

- 1 the benefits of the fire department or relief association of the municipality, rural fire department,
- 2 or rural fire protection district in which the association is organized until it appears to the state
- 3 auditor, who shall report the fact to the governor, that all moneys wrongfully expended have
- 4 been replaced. The governor may take such further action as the emergency may demand.