

CHAPTER 91.

[S. S. B. 226.]

RELATING TO FIREMEN OF CITIES AND TOWNS.

AN Act relating to firemen of cities and towns; establishing and creating a firemen's relief and pension system and a pension fund in certain cities and towns; providing for the maintenance of and contributions and payments thereto, and for distribution of and payments therefrom; providing for the administration of the act; repealing chapter 50, Laws of 1909; chapter 196, Laws of 1919; chapter 86, Laws of 1929, and chapter 39, Laws of 1935 (secs. 9559-9578, incl., Rem. Rev. Stat.; secs. 396-1 to 396-43, incl., PPC) and all other acts or parts of acts in conflict herewith; and declaring that the act shall take effect as of April 1, 1947.

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

SECTION 1. For the purpose of this act, unless Definitions.
clearly indicated by the context, words and phrases shall have the following meaning:

(1) "Beneficiary" shall mean any person or persons designated by a fireman in a writing filed with the board, and who shall be entitled to receive any benefits of a deceased fireman under this act. "Beneficiary."

(2) "Board" shall mean the Municipal Firemen's Pension Board. "Board."

(3) "Child or children" shall mean a child or children unmarried and under eighteen (18) years of age. "Child or children."

(4) "Contributions" shall mean and include all sums deducted from the salary of firemen and paid into the fund as hereinafter provided. "Contributions."

(5) "Disability" shall mean and include injuries or sickness sustained as a result of the performance of duty. "Disability."

(6) "Fireman" shall mean any person regularly or temporarily, or as a substitute, employed and paid as a member of a fire department, who has passed a Civil Service Examination for fireman and who is actively employed as a fireman; and shall include any "prior fireman." "Fireman."

"Fire Department."

(7) "Fire Department" shall mean the regularly organized, full-time, paid, and employed force of firemen of the municipality.

"Fund."

(8) "Fund" shall mean the Firemen's Pension Fund created herein.

"Municipality."

(9) "Municipality" shall mean every city and town having a regularly organized full-time, paid, fire department employing firemen.

"Performance of Duty."

(10) "Performance of Duty" shall mean the performance of work and labor regularly required of firemen and shall include services of an emergency nature rendered while off regular duty, but shall not include time spent in traveling to work before answering roll call or traveling from work after dismissal at roll call.

"Prior Fireman."

(11) "Prior Fireman" shall mean a fireman who was actively employed as a fireman of a fire department prior to the first day of January, 1947, and who continues such employment thereafter.

"Retired Fireman."

(12) "Retired Fireman" shall mean and include a person employed as a fireman and retired under the provisions of chapter 50, Laws of 1909, as amended.

"Widow."

(13) "Widow" means the surviving wife of a retired fireman who was retired on account of length of service and who was lawfully married to such fireman; and whenever that term is used with reference to the wife or former wife of a retired fireman who was retired because of disability, it shall mean his lawfully married wife on the date he sustained the injury or contracted the illness that resulted in his disability. Said term shall not mean or include a surviving wife who by process of law within one year prior to the retired fireman's death, collected or attempted to collect from him funds for the support of herself or her children.

Board created.

SEC. 2. There is hereby created in each municipality a Municipal Firemen's Pension Board to consist of, ex officio, the mayor, who shall be chairman

of the board, the city comptroller, clerk, the chairman of finance of the city council, or if there is no chairman of finance, the city treasurer, and in addition, two regularly employed firemen elected by secret ballot of the firemen. The first members to be elected by the firemen shall be for a term of one and two years, respectively, and their successors shall be elected annually for a two year term. In case a vacancy occurs in the membership of the firemen members, the members of the fire department shall in the same manner elect a successor to serve his unexpired term. The board may select and appoint a secretary who may, but need not be a member of the board. In case of absence or inability of the chairman to act, the board may select a chairman pro tempore who shall during such absence or inability perform the duties and exercise the powers of the chairman. A majority of the members of said board shall constitute a quorum and have power to transact business.

Members.

Terms.

Vacancies.

Secretary.

Quorum.

SEC. 3. The board shall meet at least once monthly, the date to be fixed by regulation of the board, at such other regular times as may be fixed by a regulation of the board; and at any time upon call of the chairman, of which due advance notice shall be given the other members of the board.

Meetings.

SEC. 4. The board shall have such general powers as are vested in it by the provisions of this act, and in addition thereto, the power to:

Powers.

(1) Generally supervise and control the administration of this act and the Firemen's Pension Fund created hereby.

General supervision.

(2) Pass upon and allow or disallow all applications for pensions or other benefits provided by this act.

Pass on applications.

(3) Provide for payment from said fund of necessary expenses of maintenance and administration of said pension system and fund.

Pay for administration.

Invest the
monies of
the fund.

(4) Invest the monies of the fund in such securities of the United States, state, municipal corporations and other public bodies as are designated by the Laws of the State of Washington as lawful investments for funds of mutual savings banks; and in any bonds or warrants, including local improvement bonds or warrants issued under the state local improvement guaranty fund law, or in utility bonds or warrants issued by the municipality operating the fund.

Employ
personnel.

(5) Employ such agents, employees and other personnel as the board may deem necessary for the proper administration of this act.

Hold
hearings.

(6) Compel witnesses to appear and testify before it, in the same manner as is or may be provided by law for the taking of depositions in the Superior Court. Any member of the board may administer oaths to witnesses who testify before the board of a nature and in a similar manner to oaths administered by Superior Courts of the State of Washington.

Pay claims.

(7) Issue vouchers approved by the chairman and secretary and to cause warrants therefor to be issued and paid from said fund for the payment of claims allowed by it.

Keep
records.

(8) Keep a record of all its proceedings, which record shall be public; and prepare and file with the City Treasurer and City Clerk or comptroller prior to the date when any payments are to be made from the fund, a list of all persons entitled to payment from the fund, stating the amount and purpose of such payment, said list to be certified to and signed by the chairman and secretary of the board and attested under oath.

Make
rules.

(9) Make rules and regulations not inconsistent with this act for the purpose of carrying out and effecting the same.

Appoint
physicians.

(10) Appoint one or more duly licensed and practicing physicians who shall examine and report to the board upon all applications for relief and pen-

sion under this act. Such physicians shall visit and examine all sick and disabled firemen when, in their judgment, the best interests of the relief and pension fund require it or when ordered by the board. They shall perform all operations on such sick and injured firemen and render all medical aid and care necessary for the recovery of such firemen on account of sickness or disability received while in the performance of duty as defined in this act. Such physicians shall be paid from said fund, the amount of said fees or salary to be set and agreed upon by the board and the physicians. No physician not regularly appointed or specially appointed and employed, as hereinafter provided, shall receive or be entitled to any fees or compensation from said fund as attending physician to a sick or injured fireman. If any sick or injured fireman refuses the services of the appointed physicians, or the specially appointed and employed physician, he shall be personally liable for the fees of any other physician employed by him. No person shall have a right of action against the board or the municipality for negligence of any physician employed by it. The board shall have the power and authority to select and employ, besides the regularly appointed physician, such other physician, surgeon or specialist for consultation with, or assistance to the regularly appointed physician, or for the purpose of performing operations or rendering services and treatment in particular cases, as it shall deem advisable, and to pay fees for such services from said fund. Said board shall hear and decide all applications for such relief or pensions under this act, and its decisions on such applications shall be final and conclusive and not subject to revision or reversal except by the board.

Duties of
physicians.

Payment of
physicians.

Employ
other
medical
personnel.

Board's
decision
final.

SEC. 5. There is hereby created and established in the treasury of each municipality a fund which shall be known and designated as the Firemen's

Firemen's
pension
fund.

Pension Fund, which shall consist of (1) all bequests, fees, gifts, emoluments or donations given or paid thereto, (2) forty-five per cent (45%) of all monies received by the state from taxes on fire insurance premiums, (3) taxes paid pursuant to the provisions of section six (6) hereof, (4) interest on the investments of the fund, (5) contributions by firemen as provided for herein.

One mill
tax levy.Additional
levy.

SEC. 6. It shall be the duty of the legislative authority of each municipality, each year as a part of its annual tax levy, to levy and place in the fund a tax of one mill on all the taxable property of such municipality: *Provided*, That should the estimated amount to be raised by said levy of one mill, together with other estimated income be insufficient to meet the estimated requirements of the fund then there shall be levied such additional tax, not to exceed one mill, as will meet said requirements: *Provided further*, That said additional levy may be in addition to the city fifteen mill levy limit now provided by law.

Contribu-
tions after
January,
1947.

SEC. 7. (a) Every fireman employed on and after January 1st, 1947, shall contribute to the fund and there shall be deducted from his pay and placed in the fund an amount in accordance with the following table:

Table.

Fireman Whose Age at Last
Birthday at Time of Entry
of Service was:Contributions and
Deductions from
Salary

21 and under

5.00%

22

5.24%

23

5.50%

24

5.77%

25

6.07%

26

6.38%

27

6.72%

28

7.09%

29

7.49%

30 and over

7.92%

Contribu-
tions prior
to January,
1947.

(b) Every fireman employed prior to January 1st, 1947, and continuing active employment shall contribute to the fund and there shall be deducted

from his salary and placed in the fund, five per cent (5%) of his salary.

(c) Every fireman actively employed and eligible for retirement and not retired shall contribute to the fund and there shall be deducted from his salary and placed in the fund, four per cent (4%) of his salary.

Contribu-
tion when
eligible for
retirement.

SEC. 8. (a) Any fireman employed in a fire department on and subsequent to the 1st day of January, 1947, hereinafter in this section referred to as "fireman", and who shall have served twenty-five (25) or more years and having attained the age of fifty-five (55) years, as a member of the fire department, shall be eligible for retirement and shall be retired by the board upon his written request. Upon his retirement any fireman shall be paid a pension based upon the average monthly salary drawn for the five (5) calendar years before retirement, the number of years of his service and a percentage factor based upon his age on entering service, as follows:

Retirement.

Pension.

Entrance Age at Last Birthday	Salary Percentage Factor	Salary per- centage factor.
20 and under	1.50%	
21	1.55%	
22	1.60%	
23	1.65%	
24	1.70%	
25	1.75%	
26	1.80%	
27	1.85%	
28	1.90%	
29	1.95%	
30 and over	2.00%	

Said monthly pension shall be in the amount of his average monthly salary for the five (5) calendar years before retirement, times the number of years of service, times the applicable percentage factor.

Maximum
pension.

(b) No monthly pension or benefit shall be paid in excess of one hundred twenty-five dollars (\$125.00).

Payments to
widow, chil-
dren, or
beneficiary.

(c) Widow, child, children or beneficiary of any fireman retired under this section shall receive an amount equal to his accumulated contributions to the fund, plus earned interest thereon, compounded semi-annually: *Provided, however,* There shall be deducted from said sum the amount paid to decedent in pensions and such remainder shall be paid to his widow, child, children or beneficiary: *Provided,* That the amount paid shall not be less than one thousand dollars (\$1,000).

Death when
eligible but
not retired.

(d) Whenever any fireman shall die while eligible to retirement on account of years of service, and shall not have been retired, benefits shall be paid in accordance with sub-division (c) of this section.

Death in line
of duty.

(e) Whenever any active fireman or fireman retired for disability shall die as the result of an accident or other fortuitous event occurring while in the performance of his duty, his widow may elect to accept a monthly pension equal to one-half the deceased fireman's salary but in no case in excess of one hundred twenty-five dollars (\$125) per month, or the sum of five thousand dollars (\$5,000) cash. The right of election must be exercised within sixty (60) days of the fireman's death. If not so exercised, the pension benefits shall become fixed and shall be paid from the date of death. Such pension shall cease if, and when, she remarries. If there be no widow, then such pension benefits shall be paid to his child or children.

Election
by widow.

Disability
incurred in
line of duty.

(f) 1. Any fireman who shall become disabled as a result of the performance of his duty or duties as defined in this act, may be retired at the expiration of six (6) months from the date of his disability, upon his written request filed with his retirement board. The board may upon such request being filed, consult such medical advice as it sees fit, and may have the applicant examined by such physicians as it deems desirable. If from the reports of such physi-

Retirement
upon
request.

cians the board finds the applicant capable of performing his duties in the fire department, the board may refuse to recommend his retirement.

2. If the board deems it for the good of the fire department or the pension fund, it may recommend the applicant's retirement without any request for same by him, after giving him a thirty (30) days notice. Upon his retirement he shall be paid a monthly disability pension in amount equal to one-half ($\frac{1}{2}$) of his monthly salary at date of retirement, but which shall not exceed one hundred twenty-five dollars (\$125) a month. If he recover from his disability he shall thereupon be restored to active service, with the same rank he held when he retired.

Involuntary
retirement
with
disability.

3. If the fireman die during disability and not as a result thereof, paragraph (j) of this section shall apply.

Death
during
disability.

(g) Any fireman who has served more than fifteen (15) years and sustains a disability not in the performance of his duty which renders him unable to continue his service, shall within sixty (60) days exercise his choice either to receive his contribution to the fund, plus earned interest compounded semi-annually, or be retired and paid a monthly pension based on the factor of his age shown in section (8) hereof, times his average monthly salary as a member of the fire department of his municipality at the date of his retirement, times the number of years of service rendered at the time he sustained such disability. If such fireman shall die leaving surviving him a wife, or child or children, then such wife, or if he leaves no wife, then his child or children shall receive the sum of his contributions, plus accumulated compound interest, and such payment shall be reduced in the amount of the payments made to deceased.

Disability
not incurred
in line
of duty.

Option.

Death after
incurring
disability.

(h) Any fireman who has served twenty (20) years or more and who shall resign or be dismissed, shall have the option of receiving all his contribu-

Resignation
or dismissal
after twenty
years'
service.

Option.

Election.

Death
before
age 55.

Death after
age 55.

Resignation
or dismissal
before 20
years'
service.

Death after
4 years'
service.

tions plus earned interest compounded semi-annually, or a monthly pension in the amount of his average monthly salary times the number of years of service rendered, times one and one-half per cent (1.5%). Payment of such pension shall commence at the time of severance from the fire department, or at the age of fifty-five (55) years, whichever shall be later. The fireman shall have sixty (60) days from the severance date to elect which option he will take. In the event he fails to exercise his right of election then he shall receive the amount of his contributions plus accrued compounded interest. In the event he elects such pension, but dies before attaining the age of fifty-five (55), his widow, or if he leaves no widow, then his child or children shall receive only his contribution, plus accrued compounded interest. In the event he elects to take a pension and dies after attaining the age of fifty-five (55), his widow, or if he leave no widow, then child or children shall receive his contribution, plus accrued compounded interest, less the amount of pension payments made to such fireman during his lifetime.

(i) Any fireman who shall have served for a period of less than twenty (20) years, and shall resign or be dismissed, shall be paid the amount of his contributions, plus accrued compounded interest.

(j) Whenever any fireman, after four (4) years of service, shall die from natural causes, or from an injury not sustained in the performance of his duty and for which no pension is provided for in this act, and who has not been retired on account of disability, his widow, if she was his wife at the time he was stricken with his last illness, or at the time he received the injuries from which he died; or if there be no such widow, then his child or children shall be entitled to the amount of his contributions, plus accrued compounded interest, or the sum of one thousand dollars (\$1,000), whichever

sum shall be the greater; provided in case of death as above stated, before the end of four (4) years of service, an amount based on the proportion of the time of service to four (4) years shall be paid such beneficiaries.

(k) Whenever a fireman dies leaving no widow or children, the amount of his accumulated contributions, plus accrued compounded interest only, shall be paid his beneficiary.

Payment to beneficiary.

(l) Upon the death of any active, disabled or retired fireman the board shall pay from the fund the sum of two hundred dollars (\$200) to assist in defraying the funeral expenses of such fireman.

Funeral expenses.

(m) No fireman disabled in the performance of duty shall receive a pension until six (6) months has elapsed after such disability was sustained. Therefore, whenever the retirement board, pursuant to examination by the board's physician and such other evidence as it may require, shall find a fireman has been disabled while in the performance of his duties, it shall declare him inactive. For a period of six (6) months from the time he became disabled, he shall continue to draw full pay from his municipality and in addition thereto he shall, at the expense of the municipality, be provided with such medical, hospital and nursing care as the retirement board deems proper. If the board find at the expiration of six (6) months that the fireman is unable to return to and perform his duties, then he shall be retired as herein provided.

Disability pension after 6 months.

Full pay for 6 months.

Medical expense.

SEC. 9. The board shall require all firemen receiving disability pensions to be examined every six (6) months. All such examinations shall be made by physicians duly appointed by the board. If a fireman shall fail to submit to such examination within ten (10) days of having been so ordered in writing by said retirement board all pensions or benefits paid to said fireman under this act, shall

Examination after disability.

Failure to submit to examination.

Restoration
to duty.

Failure
to report.

Money
transferred
to Fire-
men's Pen-
sion Fund.

New fund
liable for
obligations
of old fund.

immediately cease [cease] and the disbursing officer in charge of such payments shall issue no further payments to such fireman. If such fireman fails to present himself for examination within thirty (30) days after being ordered so to do, he shall forfeit all rights under this act. If such fireman, upon examination as aforesaid, shall be found fit for service, he shall be restored to duty in the same rank held at the time of his retirement, or if unable to perform the duties of said rank, then, at his request, in such other rank, the duties of which he is then able to perform. The board shall thereupon so notify the fireman and shall require him to resume his duties as a member of the fire department. If, upon being so notified, such member shall fail to report for employment within ten (10) days, he shall forfeit all rights to any benefits under this act.

SEC. 10. (a) Funds or assets on hand in the Firemen's Relief and Pension Fund of any municipality established under the provisions of chapter 50, Laws of 1909, as amended, after payment of warrants drawn upon and payable therefrom, shall, by the city treasurer, be transferred to and placed in the Firemen's Pension Fund created by this act; and the Firemen's Pension Fund created by this act shall be liable for and there shall be paid therefrom in the order of their issuance any and all unpaid warrants drawn upon said Firemen's Relief and Pension Fund.

(b) Any monies loaned or advanced by a municipality from the general or any other fund of such municipality to the Firemen's Relief and Pension Fund created under the provisions of chapter 50, Laws of 1909, as amended, and not repaid shall be an obligation of the Firemen's Pension Fund created under this act, and shall at such times and in such amounts as is directed by the board be repaid.

SEC. 11. Any person who was a member of the fire department and within the provisions of chapter 50, Laws of 1909, as amended, at the time he entered, and who served in the Armed Forces of the United States in times of war, and who has been discharged therefrom under conditions other than dishonorable, shall have added and accredited to his period of employment as a fireman as computed under this act his period of war service in such Armed Forces upon payment by him of his contribution for the period of his absence, at the rate provided by chapter 50, Laws of 1909, as amended, for other members: *Provided, however,* Such accredited service shall not in any case exceed five (5) years.

Service in
armed
forces.

SEC. 12. Chapter 50, Laws of 1909; chapter 196, Laws of 1919; chapter 86, Laws of 1929, and chapter 39, Laws of 1935 (secs. 9559 to 9578, incl., Rem. Rev. Stat.; secs. 396-1 to 396-43, incl., PPC) and all other acts or parts of acts in conflict herewith are hereby repealed: *Provided,* That the repeal of said laws shall not affect any "prior fireman", his widow, child or children, any fireman eligible for retirement but not retired, his widow, child or children, or the rights of any retired fireman, his widow, child or children, to receive payments and benefits from the Firemen's Pension Fund created under this act, in the amount, and in the manner provided by said laws which are hereby repealed and as if said laws had not been repealed.

Repealed
statutes.

Saving
clause.

SEC. 13. If any clause, part or section of this act shall be adjudged in violation of the constitution, or for any reason invalid, such judgment shall not affect nor invalidate the remainder of the act, nor any other clause, part or section thereof, but such judgment shall be confined in its operation to the clause, part or section directly involved in the controversy in which such judgment was rendered, and

Constitu-
tionality.

Severability.

the balance of the act shall remain in full force and effect.

Emergency.

SEC. 14. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall be effective on and after April 1, 1947.

Passed the Senate February 28, 1947.

Passed the House March 6, 1947.

Approved by the Governor March 11, 1947.

CHAPTER 92.

[H. B. 12.]

RELATING TO BOARD OF PRISON TERMS AND PAROLES.

AN ACT relating to the powers of the Board of Prison Terms and Paroles, and amending section 2, chapter 114, Laws of 1935 (sec. 10249-2, Rem. Rev. Stat.; sec. 782-5, PPC); also amending chapter 114, Laws of 1935 by adding thereto a new section, to be known as Section 2-A.

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

SECTION 1. Section 2, chapter 114, Laws of 1935 (sec. 10249-2, Rem. Rev. Stat.; sec. 782-5, PPC) is amended to read as follows:

Sentence
for certain
felonies.

Section 2. When a person is convicted of any felony, except treason, murder in the first degree, or of carnal knowledge of a child under ten years, and a new trial is not granted, the court shall sentence such person to the penitentiary, or, if the law allows and the court sees fit to exercise such discretion, to the reformatory, and shall fix the maximum term of such person's sentence only. The maximum term to be fixed by the court shall be the maximum provided by law for the crime of which such person was convicted, if the law provides for a maximum term; if the law does not provide a maximum term for the crime for which such person was

When
maximum
term fixed
by law.