

CHAPTER 255.

[H. B. 365.]

FIREMEN'S RELIEF AND PENSIONS.

AN ACT relating to firemen of cities, towns and fire protection districts; creating a relief and pension system for certain firemen and providing for pensions, benefits and allowances thereunder; providing for the maintenance of and contributions and payments to municipal firemen's pension funds; providing for the distribution of and payments from such funds; and defining terms and prescribing powers and duties of certain individuals; amending section 1, chapter 382, Laws of 1955 and RCW 41.18.010; amending section 3, chapter 382, Laws of 1955 and RCW 41.18.030; amending section 4, chapter 382, Laws of 1955 and RCW 41.18.040; amending section 6, chapter 382, Laws of 1955 and RCW 41.18.060; amending section 9, chapter 382, Laws of 1955 and RCW 41.18.080; amending section 11, chapter 382, Laws of 1955 and RCW 41.18.130; amending section 13, chapter 382, Laws of 1955 and RCW 41.18.140; amending section 5, chapter 91, Laws of 1947, as amended by section 1, chapter 45, Laws of 1949 and RCW 41.16.050; amending section 6, chapter 91, Laws of 1947 as amended by section 1, chapter 72, Laws of 1951 and RCW 41.16.060; amending section 2, chapter 91, Laws of 1947 and RCW 41.16.020; adding two new sections to chapter 41.18 RCW; and repealing section 7, chapter 382, Laws of 1955, and RCW 41.18.070, and section 12, chapter 382, Laws of 1955, and RCW 41.18-110, and section 10, chapter 382, Laws of 1955 and RCW 41.18.120.

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

SECTION 1. Section 1, chapter 382, Laws of 1955 and RCW 41.18.010, are each amended to read as follows:

RCW 41.18.010
amended.

For the purpose of this chapter, unless clearly indicated otherwise by the context, words and phrases shall have the meaning hereinafter ascribed.

Firemen's
benefits, 1955
act.
Definitions.

(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.

(2) "Fireman" means any person hereafter regularly or temporarily, or as a substitute newly em-

ployed 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 any person heretofore regularly or temporarily, or as a substitute, employed and paid as a member of a fire department, and who has contributed under and been covered by the provisions of chapter 41.16 RCW and who has come under the provisions of this chapter in accordance with RCW 41.18.170 and who is actively engaged as a fireman or as a member of the fire department.

(3) "Retired fireman" means and includes a person employed as a fireman and retired under the provisions of this chapter.

(4) "Basic salary" means the basic monthly salary, including longevity pay, attached to the rank held by the retired fireman at the date of his retirement, without regard to extra compensation which such fireman may have received for special duties assignments not acquired through civil service examination: *Provided*, That such basic salary shall not be deemed to exceed the salary of a battalion chief.

(5) "Widow" means the surviving wife of a fireman and shall include the surviving wife of a fireman, retired on account of length of service, who was lawfully married to him for a period of five years prior to the time of his retirement; and the surviving wife of a fireman, retired on account of disability, who was lawfully married to him at and prior to the time he sustained the injury or contracted the illness resulting in his disability. The word shall not mean the divorced wife of an active or retired fireman.

(6) "Child" or "children" means a fireman's child or children under the age of eighteen years, unmarried, and in the legal custody of such fireman at the time of his death.

(7) "Earned interest" means and includes all annual increments to the firemen's pension fund from

income earned by investment of the fund. The earned interest payable to any fireman when he leaves the service and accepts his contributions, shall be that portion of the total earned income of the fund which is directly attributable to each individual fireman's contributions. Earnings of the fund for the preceding year attributable to individual contributions shall be allocated to individual firemen's accounts as of January 1st of each year.

(8) "Board" shall mean the municipal firemen's pension board.

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

(10) "Disability" shall mean and include injuries or sickness sustained by a fireman.

(11) "Fire department" shall mean the regularly organized, fulltime, paid, and employed force of firemen of the municipality.

(12) "Fund" shall mean the firemen's pension fund herein created.

(13) "Municipality" shall mean every city, town and fire protection district having a regularly organized fulltime, paid, fire department employing firemen.

(14) "Performance of duty" shall mean the performance of work or labor regularly required of firemen and shall include services of an emergency nature normally rendered while off regular duty.

SEC. 2. Section 3, chapter 382, Laws of 1955 and RCW 41.18.030 are each amended to read as follows:

RCW 41.18.030
amended.

Every fireman to whom this chapter applies shall contribute to the firemen's pension fund a sum equal to six percent of his basic salary which shall be deducted therefrom and placed in the fund.

Contributions
by firemen.

SEC. 3. Section 4, chapter 382, Laws of 1955 and RCW 41.18.040 are each amended to read as follows:

RCW 41.18.040
amended.

Retirement for
service—Pen-
sion—Widow's
pension.

Whenever any fireman, at the time of taking effect of this act or thereafter, shall have been appointed under civil service rules and have served for a period of twenty-five years or more as a member in any capacity of the regularly constituted fire department of any city, town or fire protection district which may be subject to the provisions of this act, and shall have attained the age of fifty years, he shall be eligible for retirement and shall be retired by the board upon his written request. Upon his retirement such fireman shall be paid a monthly pension which shall be equal to 50% of his basic salary.

Upon the death of any such retired fireman, the amount of his pension had he lived shall be paid to his widow, if such widow was his wife for a period of five years prior to the time of his retirement. If there be no widow, then such payment shall be made to his child or children until they are eighteen years of age or have prior thereto married.

RCW 41.18.060
amended.

Disablement
in line of duty
—Inactive
period—
Allowance—
Medical, hos-
pital, nursing
care.

SEC. 4. Section 6, chapter 382, Laws of 1955 and RCW 41.18.060 are each amended to read as follows:

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 months from the time of such disability he shall draw from the pension fund a disability allowance equal to his basic monthly salary and, in addition, he shall be provided with medical, hospital and nursing care as long as the disability exists. If the board finds at the expiration of six months that the fireman is unable to return to and perform his duties, then he shall be retired at a monthly sum equal to fifty percent of the amount of his basic salary at any time thereafter attached to the rank which he held at the date of his retirement.

SEC. 5. Section 9, chapter 382, Laws of 1955 and RCW 41.18.080 amended.
RCW 41.18.080 are each amended to read as follows:

Any fireman who has completed his probationary period and has been permanently appointed, and sustains a disability not in the performance of his duty which renders him unable to continue his service, may request to be retired by filing a written request with his retirement board within sixty days from the date of his disability. The board may, upon such request being filed, consult such medical advice as it deems fit and proper. If the board finds the fireman capable of performing his duties, it may refuse to recommend retirement and order the fireman back to duty. If no request for retirement has been received after the expiration of sixty days from the date of his disability, the board may recommend retirement of the fireman. The board shall give the fireman a thirty day written notice of its recommendation, and he shall be retired upon expiration of said notice. Upon retirement he shall receive a pension equal to fifty percent of his basic salary. For a period of ninety days following such disability the fireman shall receive an allowance from the fund equal to his basic salary. He shall during said ninety days be provided with such medical, hospital, and nursing care as the board deems proper. No funds shall be expended for such disability if the board determines that the fireman was gainfully employed in other than fire department duty when the disability occurred, or if such disability was the result of dissipation or abuse. Whenever any fireman shall die as a result of a disability sustained not in the line of duty, his widow shall receive a monthly pension equal to one-third of his basic salary until remarried; if such widow has dependent upon her for support a child or children of such deceased fireman, she shall receive an additional pension as follows: One child, one-eighth of the deceased's basic salary;

Payment upon
disablement
not in line of
duty.

two children, one-seventh; three or more children, one-sixth. If there be no widow, monthly payments equal to one-third of the deceased fireman's basic salary shall be made to his child or children. The widow may elect at any time in writing to receive a cash settlement, and if the board after hearing finds it financially beneficial to the pension fund, she may receive the sum of five thousand dollars cash in lieu of all future monthly pension payments, and other benefits, including benefits to any child and/or children.

RCW 41.18.130
amended.

SEC. 6. Section 11, chapter 382, Laws of 1955 and RCW 41.18.130 are each amended to read as follows:

Payment on
separation—
With less than
twenty-five
years service
or fifty years
of age.

Any fireman who shall have served for a period of less than twenty-five years, or who shall be less than fifty years of age, and shall resign, or be dismissed from the fire department for a reason other than conviction for a felony, shall be paid the amount of his contributions to the fund plus earned interest.

RCW 41.18.140
amended.

SEC. 7. Section 13, chapter 382, Laws of 1955 and RCW 41.18.140 are each amended to read as follows:

Funeral
expenses.

The board shall pay from the firemen's pension fund upon the death of any active or retired fireman the sum of five hundred dollars, to assist in defraying the funeral expenses of such fireman.

RCW 41.16.050
amended.

SEC. 8. Section 5, chapter 91, Laws of 1947, as amended by section 1, chapter 45, Laws of 1949, and RCW 41.16.050 are each amended to read as follows:

Firemen's
benefits, 1947
act.
Firemen's pen-
sion fund
—How
constituted.

There is hereby created and established in the treasury of each municipality a fund which shall be known and designated as the firemen's pension fund, which shall consist of (1) all bequests, fees, gifts, emoluments or donations given or paid thereto, (2) forty-five percent of all moneys received by the state from taxes on fire insurance premiums, (3) taxes paid pursuant to the provisions of RCW 41.16.060, (4) interest on the investments of the fund, (5) contributions by firemen as provided for herein.

The forty-five percent of moneys received from the tax on fire insurance premiums under the provisions of this chapter shall be distributed in the proportion that the number of paid firemen in the city, town or fire protection district bears to the total number of paid firemen throughout the state to be ascertained in the following manner: The secretary of the firemen's pension board of each city, town and fire protection district now or hereafter coming under the provisions of this chapter shall within thirty days after the taking effect of this 1961 amendatory act and on or before the fifteenth day of January thereafter, certify to the state treasurer the number of paid firemen in the fire department in such city, town or fire protection district. The state treasurer shall on or before the first day of March of each year deliver to the treasurer of each city, town and fire protection district coming under the provisions of this chapter his warrant, payable to each city, town or fire protection district for the amount due such city, town or fire protection district ascertained as herein provided and the treasurer of each such city, town or fire protection district shall place the amount thereof to the credit of the firemen's pension fund of such city, town or fire protection district.

SEC. 9. Section 6, chapter 91, Laws of 1947, as amended by section 1, chapter 72, Laws of 1951, and RCW 41.16.060 are each amended to read as follows:

RCW 41.16.060
enacted with-
out amend-
ment.

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 this additional levy may be in addition to the city fifteen mill levy limit now provided by law.

Any city or town may, at any time before the annual budget for the city or town is made, cause an examination of and report on the condition of the firemen's pension fund by an actuary, and if it is established from such examination and report that the condition of the fund and the estimated demands and requirements thereon under this chapter during the ensuing budget year will not require the levy of the mandatory one mill, or if all or any part of the additional one mill levy is unnecessary to meet the estimated demands on the fund under this chapter for the ensuing budget year, the levy of the mandatory or additional one mill may be omitted, or the whole or any part of such millage may be levied and used for any other municipal purpose.

RCW 41.16.020
amended.

SEC. 10. Section 2, chapter 91, Laws of 1947 and RCW 41.16.020 are each amended to read as follows:

Pension board
created—
Members—
Terms—
Vacancies—
Quorum.

There is hereby created in each city and town a municipal firemen's pension board to consist of the following five members, ex officio, the mayor, who shall be chairman of the board, the city comptroller or 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. The two firemen so elected shall, in turn, select a third fireman who shall serve as an alternate in the event of an absence of one of the regularly elected firemen. 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.

SEC. 11. There is added to chapter 41.18 RCW a new section. to read as follows:

There is hereby created in each fire protection district which qualifies under this chapter, a firemen's pension board to consist of the following five members, the chairman of the fire commissioners for said district who shall be chairman of the board, the county auditor, county 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. That the two firemen so elected shall, in turn, select a third fireman who shall serve in the event of an absence of one of the regularly elected firemen. 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.

Fire protection district firemen's pension board.
Members—
Terms of firemen members.

Filling vacancy in firemen members.

Secretary.

Chairman pro tempore.

Quorum.

New section.

SEC. 12. There is added to chapter 382, Laws of 1955 and chapter 41.18 RCW a new section to read as follows:

Election to
take under
chapter 41.18
RCW.

Any fireman who has made contributions under any prior act may elect to avail himself of the benefits provided by this chapter or under such prior act by filing written notice with the board within sixty days from the effective date of this 1961 amendatory act: *Provided*, That any fireman who has received refunds by reason of selecting the benefits of prior acts shall return the amount of such refunds as a condition to coverage under this 1961 amendatory act.

Severability.

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 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 judgment was rendered, and the balance of the act shall remain in full force and effect.

Repeal.

SEC. 14. Section 7, chapter 382, Laws of 1955 and RCW 41.18.070; and section 12, chapter 382, Laws of 1955 and RCW 41.18.110; and section 10, chapter 382, Laws of 1955 and RCW 41.18.120 are each repealed.

Passed the House March 8, 1961.

Passed the Senate March 8, 1961.

Approved by the Governor March 20, 1961.