

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

No. 2614 Session of  
1992

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ARMSTRONG AND BATTISTO, APRIL 6, 1992

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, APRIL 6, 1992

AN ACT

1 Amending the act of June 11, 1968 (P.L.149, No.84), entitled "An  
2 act relating to volunteer firemen's relief associations,  
3 clarifying their purposes and objectives, establishing  
4 criteria and standards for the conduct of their affairs,  
5 providing for their formation, recognition, continuing  
6 operation, and for their dissolution in appropriate  
7 circumstances and the distribution of their funds," further  
8 providing for expenditure of funds; providing for cooperation  
9 agreements and for volunteer firefighters' money purchase  
10 deferred benefit plans.

11 WHEREAS, In the tragic event of death due to participation in  
12 the volunteer fire service, a death benefit is paid to the  
13 survivors of a volunteer firefighter in the amount of \$50,000  
14 under the Public Safety Officers' Benefit Act of 1976 (Public  
15 Law 94-430, 90 Stat. 1346, 42 U.S.C. § 3793 et seq.) and the  
16 death benefit in the amount of \$25,000 is paid under the act of  
17 June 24, 1976 (P.L.424, No.101), referred to as the Emergency  
18 and Law Enforcement Personnel Death Benefits Act. A statutory  
19 percentage of at least the average weekly wage in the  
20 Commonwealth is provided for under the act of June 2, 1915

1 (P.L.736, No.338), known as The Pennsylvania Workmen's  
2 Compensation Act. A death benefit also may be paid either  
3 directly or through insurance bought by the volunteer firemen's  
4 relief association under the act of June 11, 1968 (P.L.149,  
5 No.84), known as the Volunteer Firemen's Relief Association Act;  
6 and

7 WHEREAS, In the tragic event of injury due to participation  
8 in the volunteer fire service, benefits are payable to the  
9 injured volunteer firefighter under The Pennsylvania Workmen's  
10 Compensation Act, and benefits may be paid to the injured  
11 volunteer firefighter, or the firefighter's family, or both,  
12 either directly or through insurance bought by the volunteer  
13 firemen's relief association under the Volunteer Firemen's  
14 Relief Association Act; and

15 WHEREAS, In order to reduce the frequency of death and the  
16 frequency and severity of injury to volunteer firefighters,  
17 volunteer firemen's relief associations are permitted to pay for  
18 both safeguards and training under the Volunteer Firemen's  
19 Relief Association Act; and

20 WHEREAS, The General Assembly finds that there is a need to  
21 preserve the invaluable service provided by the volunteer fire  
22 service by increasing its ability to attract and retain  
23 volunteer firefighters by providing for a money purchase  
24 deferred benefit.

25 The General Assembly of the Commonwealth of Pennsylvania  
26 hereby enacts as follows:

27 Section 1. Section 3 of the act of June 11, 1968 (P.L.149,  
28 No.84), known as the Volunteer Firemen's Relief Association Act,  
29 is amended to read:

30 Section 3. Statement of Purpose.--The purpose of the

1 Legislature in enacting this statute is to encourage individuals  
2 to take part in the fire service as volunteer firemen, by  
3 establishing criteria and standards for the orderly  
4 administration and conduct of the affairs of firemen's relief  
5 associations, so as to ensure, as far as circumstances will  
6 reasonably permit, that funds shall be available for the  
7 protection of volunteer firemen and their heirs:

8 (1) To provide financial assistance to volunteer firemen who  
9 may suffer injury or misfortune by reason of their participation  
10 in the fire service;

11 (2) To provide financial assistance to the widow, children,  
12 and/or other dependents of volunteer firemen who lose their  
13 lives as a result of their participation in the fire service;

14 (3) To provide, either by insurance or by the operation of a  
15 beneficial fund, for the payment of a sum certain to the  
16 designated beneficiaries of a participating member in such fund  
17 following the death of such member for any cause, and to  
18 establish criteria which members must meet in order to qualify  
19 as participants in such death benefit fund;

20 (4) To provide safeguards for preserving life, health and  
21 safety of volunteer firemen, so as to ensure their availability  
22 to participate in the fire service;

23 (5) To provide financial assistance to volunteer firemen  
24 who, after having actively participated in the fire service for  
25 a specified minimum term, are no longer physically able to  
26 continue such participation and are in need of financial  
27 assistance;

28 (6) To provide funds to aid the rehabilitation of volunteer  
29 firemen who have suffered an impairment of their physical  
30 capacity to continue to perform their normal occupations; [and]

1     (7) To provide money purchase deferred benefits to current  
2     and future active volunteer firemen upon their separation from  
3     active participation in the fire service and attainment of a  
4     designated minimum age through the establishment and maintenance  
5     of a volunteer firemen's money purchase deferred benefit plan;  
6     and

7     [(7)] (8) In any event, to provide sufficient funds to  
8     ensure the efficient and economical handling of the business of  
9     the association in accomplishing the objectives hereinabove set  
10    forth.

11    Section 2. Section 6(e)(2) and (11) of the act are amended,  
12    the section is amended by adding a heading and subsection (e) is  
13    amended by adding clauses to read:

14    Section 6. Funds.--\* \* \*

15    (e) The funds of any volunteer firemen's relief association  
16    may be spent:

17    \* \* \*

18    (2) To purchase contracts of insurance which shall at the  
19    least afford financial assistance to active members of the fire  
20    service represented by the association against losses due to  
21    injury suffered in the fire service and which may also provide  
22    in the order named, (i) for payments to the widow or other  
23    dependents of a member in the event of his death, (ii) for  
24    protection of active firemen against disease, (iii) for the  
25    replacement or purchase of prosthetic devices such as visual  
26    aids, hearing aids, dentures, braces, crutches, and the like,  
27    where such devices have been lost or damaged while the owner was  
28    engaged in the fire service or where the need for such devices  
29    arises because of functional impairment attributable to  
30    participation in the fire service, (iv) for the repair or

1 replacement if necessary of articles of clothing or other  
2 personal property items lost or damaged in the course of  
3 participation in the fire service, and (v) for disability  
4 incurred after service for a minimum of twenty years as a  
5 volunteer fireman.

6 \* \* \*

7 (11) To purchase safeguards for preserving life, health, and  
8 safety of volunteer firemen, so as to ensure their availability  
9 to participate in the volunteer fire service[.], including, but  
10 not limited to, air bags and hydraulic rescue systems; air  
11 hammer rescue kits; aspirators; basket stretchers; binoculars;  
12 breathing apparatus, including, but not limited to, air cascade  
13 systems, air compressor and purification systems, air pack  
14 walkaway brackets, extra air bottles for air packs and self-  
15 contained breathing apparatus or air packs; index systems used  
16 to identify hazardous materials involved in extinguishing  
17 chemical fires; cribbing and trench shoring devices; combustible  
18 gas detection devices; first aid kits and supplies; flares;  
19 ground ladders; inhalators; life nets; lighting equipment,  
20 including, but not limited to, flashlights, lighting cable and  
21 portable floodlights; personal alarm monitors; poles used to  
22 lift electrical wires; pompier belts; portable emergency warning  
23 signs; portable generators; portable loud speaker units or  
24 bullhorns; porta-power rescue kits; protective clothing,  
25 including, but not limited to, coveralls worn while  
26 participating in fire service activities, face shields, fire  
27 resistant undergarments, firemen's bunker coats and pants,  
28 gloves, helmets and hoods, proximity suits, reflective traffic  
29 control coats and capes for fire police and safety goggles;  
30 radios, including, but not limited to, pocket-pager-type

1 alerting monitors which emit one-way voice communication,  
2 portable, two-way radios (walkie-talkie type) and two-way radios  
3 permanently installed in emergency vehicles; rescue rope; rescue  
4 saws; resuscitators; safety bars or straps for fire apparatus;  
5 smoke ejectors; traffic cones; and warning lights and sirens for  
6 emergency vehicles.

7 \* \* \*

8 (13) To purchase fire prevention educational materials  
9 designed primarily and dedicated specifically for the sole  
10 purpose of increasing awareness of, appreciation for, and  
11 community support of fire services, including, but not limited  
12 to, books, pencils, balloons, tot finders, pamphlets, booklets  
13 and stickers.

14 (14) To purchase exercise and fitness equipment for use  
15 solely by volunteer firefighters for the purpose of maintaining  
16 their physical health and fitness to provide for and enhance  
17 their ability to perform physical tasks directly related to the  
18 job of fighting fires, including, but not limited to,  
19 weightlifting equipment, walking treadmills, stationary  
20 bicycles, universal gyms, step-masters, jump ropes and ropes for  
21 climbing. Total expenditures for exercise and fitness equipment  
22 shall not exceed two thousand dollars in any two-year period.  
23 All exercise and fitness equipment shall be located in the  
24 firehouse or other such structure which has as its primary  
25 dedicated use the housing of the firefighting operations and  
26 equipment of the fire company.

27 (15) To establish and maintain a money purchase deferred  
28 benefit plan as provided in section 9.

29 Section 3. The act is amended by adding a section to read:

30 Section 6.1. Cooperation Agreements.--Two or more volunteer

1 firefighters' relief associations may jointly enter into  
2 agreements to make expenditures authorized under this act. A  
3 joint cooperation agreement may be enforced by and against a  
4 volunteer firefighters' relief association.

5 Section 4. Section 7(a) of the act is amended to read:

6 Section 7. Audits.--(a) The Department of the Auditor  
7 General shall have the power, and its duty shall be, to audit  
8 the accounts and records of every volunteer firemen's relief  
9 association receiving any money under [the act of June 28, 1895  
10 (P.L.408), as amended,] Chapter 7 of the act of December 18,  
11 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan  
12 Funding Standard and Recovery Act," as far as may be necessary  
13 to satisfy the department that the money received was expended  
14 or is being expended for no purpose other than that authorized  
15 by this act. Copies of all such audits shall be furnished to the  
16 Governor. These audits shall include revenues and expenditures  
17 relating to money purchase deferred benefit plans either solely  
18 or partially paid for with money obtained under the "Municipal  
19 Pension Plan Funding Standard and Recovery Act."

20 \* \* \*

21 Section 5. The act is amended by adding a section to read:

22 Section 9. Money Purchase Deferred Benefit Plan.--(a) (1)  
23 A volunteer firemen's relief association may create a money  
24 purchase deferred benefit plan beginning on January 1 of any  
25 year after December 31, 1992, for its current and future active  
26 members.

27 (2) If the relief association creates a money purchase  
28 deferred benefit plan, the relief association also shall adopt a  
29 plan document specifying all aspects of the arrangement between  
30 the relief association and its members concerning the money

1 purchase deferred benefit provided.

2 (3) If a relief association creates a money purchase  
3 deferred benefit plan, the relief association also shall create  
4 a fund that shall be a fiscal and accounting entity with a self-  
5 balancing set of accounts recording cash and other financial  
6 resources, together with all related liabilities, and residual  
7 equities or balances, and changes therein, that is segregated  
8 for the purpose of accounting for assets held by the relief  
9 association in a trustee capacity for the members and  
10 beneficiaries of the money purchase deferred benefit plan.

11 (b) (1) A volunteer firemen's relief association annually  
12 shall determine how much money, if any, to contribute to its  
13 money purchase deferred benefit fund. In any calendar year, a  
14 volunteer firemen's relief association shall not contribute to  
15 its money purchase deferred benefit fund more than one-third of  
16 the money it received during the previous calendar year under  
17 Chapter 7 of the act of December 18, 1984 (P.L.1005, No.205),  
18 known as the "Municipal Pension Plan Funding Standard and  
19 Recovery Act."

20 (2) A volunteer firemen's relief association may match its  
21 contribution to the money purchase deferred benefit plan under  
22 clause (1) up to and including a dollar-for-dollar basis by  
23 using any of the balance obtained by adding together the  
24 balances in the unrestricted cash, cash equivalent and  
25 investment accounts of the relief association at the close of  
26 business on December 31 of the previous year and subtracting  
27 from that both the balances in all liability accounts of the  
28 relief association on that December 31 and the money it received  
29 during that previous calendar year under Chapter 7 of the  
30 "Municipal Pension Plan Funding Standard and Recovery Act." The



assets, liabilities and equities of any money purchase deferred benefit fund existing on that December 31 shall be excluded from this calculation.

(c) A relief association may make an annual contribution to a money purchase deferred benefit plan only for a volunteer fireman who in the previous year accumulated at least fifty eligibility points. A volunteer fire company covered by a money purchase deferred benefit plan established by a volunteer firemen's relief association shall adopt an eligibility point system that grants points for activities that the volunteer fire company designates from among the activities specified below. The volunteer fire company may designate less than all the activities specified below as activities for which the eligibility points specified below may be earned.

Notwithstanding any other provision of this subsection, a volunteer fireman shall not accumulate eligibility points with respect to activities described in clause (2), (4) or (5) with respect to more than one volunteer fire company in one year. Activities shall be selected from the following:

(1) Training courses, a maximum of twenty-five eligibility points shall be awarded as follows: (i) courses under twenty hours' duration, one eligibility point per hour, with a maximum of five eligibility points; (ii) courses of twenty to forty-five hours' duration, one eligibility point per hour for each hour over the initial twenty hours, with a maximum of ten eligibility points; and (iii) courses over forty-five hours' duration, fifteen eligibility points per course.

(2) Drills of at least two hours, a maximum of twenty eligibility points shall be awarded, one eligibility point per drill (minimum two-hour drill).

(3) Sleep-in or standby, a maximum of twenty eligibility points shall be awarded for (i) sleep-in, one eligibility point each full night; (ii) standby, which is line-of-duty activity of the volunteer fire company, lasting for four hours, not falling under one of the other categories in this subsection, one eligibility point for each four hours.

(4) Elected or appointed position, a maximum of twenty-five eligibility points shall be awarded for (i) completion of one-year term in an elected or appointed position; and (ii) being elected, as an active volunteer fireman, to serve as a delegate to a firemen's convention.

(5) Attendance at meetings, a maximum of twenty eligibility points shall be awarded for attendance at an official meeting of the volunteer fire company, at the rate of one eligibility point per meeting.

(6) Participation in department responses, fifteen eligibility points for responding on the minimum number of calls shall be awarded as outlined below:

| <u>Total number of calls</u>  | <u>Minimum number of calls</u> |
|-------------------------------|--------------------------------|
| <u>volunteer fire company</u> | <u>volunteer fireman must</u>  |
| <u>responds to annually</u>   | <u>run annually in order</u>   |
| <u>other than emergency</u>   | <u>to receive fifteen</u>      |
| <u>rescue and first aid</u>   | <u>eligibility points</u>      |
| <u>squad calls (ambulance</u> |                                |
| <u>calls)</u>                 |                                |
| <u>0 to 500</u>               | <u>10%</u>                     |
| <u>500 to 1000</u>            | <u>7.5%</u>                    |
| <u>1000 to 1500</u>           | <u>5%</u>                      |
| <u>1500 and up</u>            | <u>2.5%</u>                    |

|                              |                                |
|------------------------------|--------------------------------|
| <u>Total number of calls</u> | <u>Minimum number of calls</u> |
|------------------------------|--------------------------------|

|                             |                               |
|-----------------------------|-------------------------------|
| <u>emergency rescue and</u> | <u>volunteer fireman must</u> |
| <u>first aid squad</u>      | <u>run annually in order</u>  |
| <u>(ambulance) responds</u> | <u>to receive fifteen</u>     |
| <u>to annually</u>          | <u>eligibility points</u>     |
| <u>    0    to    500</u>   | <u>    10%</u>                |
| <u>  500  to  1000</u>      | <u>    7.5%</u>               |
| <u> 1000  to  1500</u>      | <u>    5%</u>                 |
| <u> 1500 and up</u>         | <u>    2.5%</u>               |

(7) Miscellaneous activities, a maximum of fifteen eligibility points shall be awarded for participation in inspections or other activities described in section 1 of the act of June 24, 1976 (P.L.424, No.101), referred to as the Emergency and Law Enforcement Personnel Death Benefits Act, and not otherwise listed at the rate of one eligibility point per activity.

(d) (1) A volunteer firemen's relief association shall allocate its annual contribution to its money purchase deferred benefit fund as provided in this subsection. Each eligible volunteer fireman shall be given one hundred service credits. As provided in clause (2), an eligible volunteer fireman also may be given not more than one hundred additional service credits to recognize past service. The service credits for all eligible volunteer firemen shall be added together to determine the grand total of the service credits. The grand total of the service credits shall be divided into the total volunteer firemen's relief association contribution to determine the contribution per service credit. The contribution per service credit shall be multiplied by each eligible volunteer fireman's total service credits to determine the contribution amounts to be allocated to member accounts.

1     (2) During the first ten years that a money purchase  
2 deferred benefit plan is in effect, a volunteer fire company may  
3 implement a uniform procedure to give eligible volunteer firemen  
4 up to ten additional service credits for each year of service  
5 prior to the effective date of the money purchase deferred  
6 benefit plan. A volunteer fire company shall not give additional  
7 service credits to an eligible volunteer fireman for more than  
8 ten years of prior service.

9     (e) (1) The plan document shall specify that the ultimate  
10 deferred benefit payable to a member shall be payable only from  
11 the balance in the individual member's account. The plan  
12 document shall not define the relief association's contribution  
13 as a dollar amount per member.

14     (2) A member's rights in the terms of entitlement to the  
15 money purchase deferred benefit shall vest immediately upon the  
16 volunteer firemen's relief association making its contribution,  
17 crediting the investment earnings, crediting gains or debiting  
18 losses on the sale of investments, etc. At all times, the amount  
19 owed to a member shall equal the assets of the member's money  
20 purchase deferred benefit account.

21     (3) A member shall receive payments from a money purchase  
22 deferred benefit plan only after separation from active  
23 participation in the fire service and attainment of a designated  
24 minimum age of at least sixty-five as specified in the plan  
25 document.

26     (4) The deferred benefit shall be paid only from the  
27 accumulated assets in the member's account and shall not be the  
28 liability of any other fund of the volunteer firemen's relief  
29 association or the contractual or other liability of the  
30 volunteer fire company, the municipality or the Commonwealth.

1     (5) A money purchase deferred benefit payable from the plan  
2 to an individual receiving or entitled to receive a deferred  
3 benefit shall be exempt from any Commonwealth or municipal tax,  
4 may not be assigned by the member, shall not be subject to  
5 garnishment, judgment, execution, or other legal process other  
6 than legally obligated support of minor children or a spouse or  
7 any indebtedness due the relief association arising out of  
8 embezzlement or fraudulent conversion by a member against the  
9 relief association.

10     (f) (1) The governing body of a volunteer firemen's relief  
11 association and the designated plan administrator under clause  
12 (4), if any, shall act solely in the interest of the money  
13 purchase deferred benefit plan's participants and beneficiaries.  
14 Subject only to the provisions of this act and the plan  
15 document, the governing body may accept, hold, invest in and  
16 retain an investment as long as the governing body exercises the  
17 degree of judgment and care, under the circumstances then  
18 prevailing, that persons of prudence and intelligence exercise  
19 in the management of their own affairs, not in regard to  
20 speculation but in regard to permanent disposition of their  
21 funds, considering the probable income to be derived and the  
22 probable safety of the capital. Subject only to the provisions  
23 of this act and the plan document, the designated plan  
24 administrator under clause (4) may accept, hold, invest in and  
25 retain an investment as long as the designated plan  
26 administrator exercises that degree of judgment, prudence,  
27 skill, diligence and care, under the circumstances then  
28 prevailing, that persons of prudence, discretion and  
29 intelligence acting in a similar capacity and familiar with that  
30 activity would exercise in the conduct of an enterprise of a

1 similar character and with similar aims.

2 (2) The volunteer firemen's relief association or the  
3 designated plan administrator under clause (4), whichever is  
4 applicable, shall provide volunteer firemen who participate in a  
5 money purchase deferred benefit plan maintained under this act  
6 with a summary of the plan document's provisions, including the  
7 plan document's provisions relating to the participation  
8 requirements, and the plan's contribution formula. This summary  
9 shall be provided to each money purchase deferred benefit plan  
10 participant within six months from the date on which plan  
11 participation commences. In addition, a material modification to  
12 the plan document provisions shall be provided in writing to  
13 each participant within six months after the date the  
14 modification is adopted or the date on which it is effective,  
15 whichever is later. A copy of the plan document, a summary of  
16 the plan document, and relevant documents related to the funding  
17 or investment of the assets of the plan and of contracts or  
18 agreements with service providers to the plan shall be made  
19 available for inspection or copying by a plan participant, a  
20 beneficiary or a member of the public at the office of the  
21 volunteer firemen's relief association.

22 (3) Before July 1, the volunteer firemen's relief  
23 association or the designated plan administrator under clause  
24 (4), whichever is applicable, shall provide volunteer firemen  
25 and their beneficiaries who participate in a money purchase  
26 deferred benefit plan maintained under this act with a statement  
27 indicating the balance in that individual's account at the  
28 beginning of the previous calendar year, increases and decreases  
29 in the account during the previous calendar year aggregated by  
30 general sources and applications, and the balance in the account

1 at the end of the previous calendar year.

2 (4) The governing body of the relief association shall be  
3 permitted to contract with any insurance company that has  
4 qualified and is authorized by the Insurance Department to  
5 transact business in this Commonwealth, or with any bank,  
6 savings and loan association or trust company approved by the  
7 Department of Banking, or with an investment adviser registered  
8 under the Investment Advisers Act of 1940 (Public Law 76-768, 54  
9 Stat. 847, 15 U.S.C. § 80b-1 et seq.), which is registered as an  
10 investment adviser by the Pennsylvania Securities Commission to  
11 be designated as the money purchase deferred benefit plan  
12 administrator. The governing body of the relief association may  
13 delegate the power to administer the money purchase deferred  
14 benefit plan in its entirety, including the power to receive and  
15 invest all moneys deposited into the money purchase deferred  
16 benefit fund and such other powers as are vested in the  
17 governing body. The contract shall require the deferred benefit  
18 plan administrator annually to disclose to the relief  
19 association all expenses of operating and administering the  
20 money purchase deferred benefit plan.

21 (5) The assets of the money purchase deferred benefit plan  
22 shall be held in trust by the volunteer firemen's relief  
23 association or by a qualified third party under contract with  
24 the volunteer firemen's relief association for the purpose of  
25 providing benefits to participants and their beneficiaries in  
26 conformance with this act or for the purpose of defraying the  
27 necessary and reasonable expenses of the operation and  
28 administration of the plan. If the money purchase deferred  
29 benefit plan and the related trust are not tax qualified within  
30 the meaning of sections 401 and 501 of the Internal Revenue Code

1 of 1986 (Public Law 99-514, 26 U.S.C. §§ 401 and 501), the trust  
2 referred to in this clause may provide that the assets held  
3 thereunder may be subject to the claims of general creditors, if  
4 any, of the volunteer firemen's relief association or may  
5 contain any other terms and provisions that are necessary to  
6 insure that the participation by a volunteer fireman in the  
7 money purchase deferred benefit plan does not result in taxable  
8 income under the Internal Revenue Code of 1986 prior to the  
9 payment of deferred benefits.

10       Section 6. This act shall take effect immediately.