

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2620 Session of
1988

INTRODUCED BY MOWERY, VAN HORNE, McVERRY, PHILLIPS, NOYE,
CLYMER, S. H. SMITH, JOHNSON, HERMAN, MANMILLER, PICCOLA,
DEMPSEY, LEH, DIETTERICK, HASAY, JACKSON AND FARGO, JULY 6,
1988

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JULY 6, 1988

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," providing
8 for volunteer firefighters' money purchase deferred benefit
9 plans.

10 WHEREAS, In the tragic event of death due to participation in
11 the volunteer fire service, a death benefit is paid to the
12 survivors of a volunteer firefighter in the amount of \$50,000
13 under the Public Safety Officers' Benefit Act of 1976 (Public
14 Law 94-430, 90 Stat. 1346, 42 U.S.C. § 3793 et seq.) and the
15 death benefit in the amount of \$25,000 is paid under the act of
16 June 24, 1976 (P.L.424, No.101), referred to as the Emergency
17 and Law Enforcement Personnel Death Benefits Act. A statutory
18 percentage of at least the average weekly wage in the
19 Commonwealth is provided for under the act of June 2, 1915
20 (P.L.736, No.338), known as The Pennsylvania Workmen's

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

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

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

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

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

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

29 Section 3. Statement of Purpose.--The purpose of the
30 Legislature in enacting this statute is to encourage individuals

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

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

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

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

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

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

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

30 (7) To provide money purchase deferred benefits to current

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

6 [(7)] (8) In any event, to provide sufficient funds to
7 ensure the efficient and economical handling of the business of
8 the association in accomplishing the objectives hereinabove set
9 forth.

10 Section 2. Section 6 of the act is amended by adding a
11 heading and section 6(e) is amended by adding a clause to read:

12 Section 6. Use of Funds.--* * *

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

15 * * *

16 (13) To establish and maintain a money purchase deferred
17 benefit plan as provided in section 9.

18 Section 3. Section 7(a) of the act is amended to read:

19 Section 7. Audits.--(a) The Department of the Auditor
20 General shall have the power, and its duty shall be, to audit
21 the accounts and records of every volunteer firemen's relief
22 association receiving any money under [the act of June 28, 1895
23 (P.L.408), as amended,] Chapter 7 of the act of December 18,
24 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan
25 Funding Standard and Recovery Act," as far as may be necessary
26 to satisfy the department that the money received was expended
27 or is being expended for no purpose other than that authorized
28 by this act. Copies of all such audits shall be furnished to the
29 Governor. These audits shall include revenues and expenditures
30 relating to money purchase deferred benefit plans either solely

or partially paid for with money obtained under the "Municipal Pension Plan Funding Standard and Recovery Act."

Section 4. The act is amended by adding a section to read:

Section 9. Money Purchase Deferred Benefit Plan.--(a) (1)
A volunteer firemen's relief association may create a money purchase deferred benefit plan beginning on January 1 of any year after December 31, 1988, for its current and future active members.

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

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

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

1 Recovery Act."

2 (2) A volunteer firemen's relief association may match its
3 contribution to the money purchase deferred benefit plan under
4 clause (1) up to and including a dollar-for-dollar basis by
5 using any of the balance obtained by adding together the
6 balances in the unrestricted cash, cash equivalent and
7 investment accounts of the relief association at the close of
8 business on December 31 of the previous year and subtracting
9 from that both the balances in all liability accounts of the
10 relief association on that December 31 and the money it received
11 during that previous calendar year under Chapter 7 of the
12 "Municipal Pension Plan Funding Standard and Recovery Act." The
13 assets, liabilities and equities of any money purchase deferred
14 benefit fund existing on that December 31 shall be excluded from
15 this calculation.

16 (c) A relief association may make an annual contribution to
17 a money purchase deferred benefit plan only for a volunteer
18 fireman who in the previous year accumulated at least fifty
19 eligibility points. A volunteer fire company covered by a money
20 purchase deferred benefit plan established by a volunteer
21 firemen's relief association shall adopt an eligibility point
22 system that grants points for activities that the volunteer fire
23 company designates from among the activities specified below.
24 The volunteer fire company may designate less than all the
25 activities specified below as activities for which the
26 eligibility points specified below may be earned.
27 Notwithstanding any other provision of this subsection, a
28 volunteer fireman shall not accumulate eligibility points with
29 respect to activities described in clause (2), (4) or (5) with
30 respect to more than one volunteer fire company in one year.

1 Activities shall be selected from the following:

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

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

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

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

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

28 (6) Participation in department responses, fifteen
29 eligibility points for responding on the minimum number of calls
30 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

1 volunteer fireman shall be given one hundred service credits. As
2 provided in clause (2), an eligible volunteer fireman also may
3 be given not more than one hundred additional service credits to
4 recognize past service. The service credits for all eligible
5 volunteer firemen shall be added together to determine the grand
6 total of the service credits. The grand total of the service
7 credits shall be divided into the total volunteer firemen's
8 relief association contribution to determine the contribution
9 per service credit. The contribution per service credit shall be
10 multiplied by each eligible volunteer fireman's total service
11 credits to determine the contribution amounts to be allocated to
12 member accounts.

13 (2) During the first ten years that a money purchase
14 deferred benefit plan is in effect, a volunteer fire company may
15 implement a uniform procedure to give eligible volunteer firemen
16 ten additional service credits for each year of service prior to
17 the effective date of the money purchase deferred benefit plan.
18 A volunteer fire company shall not give additional service
19 credits to an eligible volunteer fireman for more than ten years
20 of prior service.

21 (e) (1) The plan document shall specify that the ultimate
22 deferred benefit payable to a member shall be payable only from
23 the balance in the individual member's account. The plan
24 document shall not define the relief association's contribution
25 as a dollar amount per member.

26 (2) A member's rights in the terms of entitlement to the
27 money purchase deferred benefit shall vest immediately upon the
28 volunteer firemen's relief association making its contribution,
29 crediting the investment earnings, crediting gains or debiting
30 losses on the sale of investments, etc. At all times, the amount

1 owed to a member shall equal the assets of the member's money
2 purchase deferred benefit account.

3 (3) A member shall receive payments from a money purchase
4 deferred benefit plan only after separation from active
5 participation in the fire service and attainment of a designated
6 minimum age of at least fifty-five as specified in the plan
7 document.

8 (4) The deferred benefit shall be paid only from the
9 accumulated assets in the member's account and shall not be the
10 liability of any other fund of the volunteer firemen's relief
11 association or the contractual or other liability of the
12 volunteer fire company, the municipality or the Commonwealth.

13 (5) A money purchase deferred benefit payable from the plan
14 to an individual receiving or entitled to receive a deferred
15 benefit shall be exempt from any Commonwealth or municipal tax,
16 may not be assigned by the member, shall not be subject to
17 garnishment, judgment, execution, or other legal process other
18 than legally obligated support of minor children or a spouse or
19 any indebtedness due the relief association arising out of
20 embezzlement or fraudulent conversion by a member against the
21 relief association.

22 (f) (1) The governing body of a volunteer firemen's relief
23 association and the designated plan administrator under clause
24 (4), if any, shall act solely in the interest of the money
25 purchase deferred benefit plan's participants and beneficiaries.
26 Subject only to the provisions of this act and the plan
27 document, the governing body may accept, hold, invest in and
28 retain an investment as long as the governing body exercises the
29 degree of judgment and care, under the circumstances then
30 prevailing, that persons of prudence and intelligence exercise

1 in the management of their own affairs, not in regard to
2 speculation but in regard to permanent disposition of their
3 funds, considering the probable income to be derived and the
4 probable safety of the capital. Subject only to the provisions
5 of this act and the plan document, the designated plan
6 administrator under clause (4) may accept, hold, invest in and
7 retain an investment as long as the designated plan
8 administrator exercises that degree of judgment, prudence,
9 skill, diligence and care, under the circumstances then
10 prevailing, that persons of prudence, discretion and
11 intelligence acting in a similar capacity and familiar with that
12 activity would exercise in the conduct of an enterprise of a
13 similar character and with similar aims.

14 (2) The volunteer firemen's relief association or the
15 designated plan administrator under clause (4), whichever is
16 applicable, shall provide volunteer firemen who participate in a
17 money purchase deferred benefit plan maintained under this act
18 with a summary of the plan document's provisions, including the
19 plan document's provisions relating to the participation
20 requirements, and the plan's contribution formula. This summary
21 shall be provided to each money purchase deferred benefit plan
22 participant within six months from the date on which plan
23 participation commences. In addition, a material modification to
24 the plan document provisions shall be provided in writing to
25 each participant within six months after the date the
26 modification is adopted or the date on which it is effective,
27 whichever is later. A copy of the plan document, a summary of
28 the plan document, and relevant documents related to the funding
29 or investment of the assets of the plan and of contracts or
30 agreements with service providers to the plan shall be made

1 available for inspection or copying by a plan participant, a
2 beneficiary or a member of the public at the office of the
3 volunteer firemen's relief association.

4 (3) Before July 1, the volunteer firemen's relief
5 association or the designated plan administrator under clause
6 (4), whichever is applicable, shall provide volunteer firemen
7 and their beneficiaries who participate in a money purchase
8 deferred benefit plan maintained under this act with a statement
9 indicating the balance in that individual's account at the
10 beginning of the previous calendar year, increases and decreases
11 in the account during the previous calendar year aggregated by
12 general sources and applications, and the balance in the account
13 at the end of the previous calendar year.

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

1 association all expenses of operating and administering the
2 money purchase deferred benefit plan.

3 (5) The assets of the money purchase deferred benefit plan
4 shall be held in trust by the volunteer firemen's relief
5 association or by a qualified third party under contract with
6 the volunteer firemen's relief association for the purpose of
7 providing benefits to participants and their beneficiaries in
8 conformance with this act or for the purpose of defraying the
9 necessary and reasonable expenses of the operation and
10 administration of the plan. If the money purchase deferred
11 benefit plan and the related trust are not tax qualified within
12 the meaning of sections 401 and 501 of the Internal Revenue Code
13 of 1986 (Public Law 99-514, 26 U.S.C. §§ 401 and 501), the trust
14 referred to in this clause may provide that the assets held
15 thereunder may be subject to the claims of general creditors, if
16 any, of the volunteer firemen's relief association or may
17 contain any other terms and provisions that are necessary to
18 insure that the participation by a volunteer fireman in the
19 money purchase deferred benefit plan does not result in taxable
20 income under the Internal Revenue Code of 1986 prior to the
21 payment of deferred benefits.

22 Section 5. This act shall take effect immediately.