

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 675 Session of 1993

INTRODUCED BY TANGRETTI, HERMAN, ARMSTRONG, PESCI, KUKOVICH, CESSAR, REBER, FARGO, MELIO, FAIRCHILD, RUDY, SERAFINI, LaGROTTA, CORRIGAN, LAUGHLIN, ROBERTS, LEVDANSKY, NAILOR, OLASZ, BELFANTI, E. Z. TAYLOR, GERLACH, DeLUCA, DALEY, LUCYK, TRELLO, STAIRS, GIGLIOTTI, VEON, HALUSKA, COY, BATTISTO, PISTELLA, DERMODY, SURRA AND ROONEY, MARCH 22, 1993

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 22, 1993

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 the purposes for which funds may be expended;
9 authorizing cooperation agreements between volunteer
10 firefighters' relief associations; and making editorial
11 changes.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The title and section 1 of the act of June 11,
15 1968 (P.L.149, No.84), known as the Volunteer Firemen's Relief
16 Association Act, are amended to read:

AN ACT

18 Relating to volunteer [firemen's] firefighters' relief
19 associations, clarifying their purposes and objectives,
20 establishing criteria and standards for the conduct of their

1 affairs, providing for their formation, recognition,
2 continuing operation, and for their dissolution in
3 appropriate circumstances and the distribution of their
4 funds.

5 Section 1. Short Title.--This act shall be known and may be
6 cited as the "Volunteer [Firemen's] Firefighters' Relief
7 Association Act."

8 Section 2. Section 2 of the act, amended June 21, 1984
9 (P.L.427, No.86), is amended to read:

10 Section 2. Definitions.--As used in this act:

11 (1) A volunteer [firemen's] firefighters' relief association
12 is an organization formed primarily for the purpose of affording
13 financial protection to volunteer [firemen] firefighters against
14 the consequences of misfortune suffered as a result of their
15 participation in the fire service. Such an association may also
16 serve other purposes, as hereinafter set forth, provided only
17 that adequate provisions be first made to serve its primary
18 purpose. It may comprehend within its membership the members of
19 one or more fire companies.

20 (2) The fire service comprehends the service of organized
21 groups of individuals, not only in training for and in active
22 duty in the protection of the public against fire, but also in
23 the training for and the performance of such other activities as
24 are commonly undertaken by fire companies and their affiliated
25 organizations, including, inter alia, fire prevention, first
26 aid, rescue and salvage, ambulance service, fire police work,
27 radio communications, assistance at accidents, control of crowds
28 both on the fire grounds and at occasions of public or general
29 assembly, animal rescue, abatement of conditions due to storm,
30 flood, or general peril, abatement or removal of hazards to

1 safety, and participation in public celebrations, parades,
2 demonstrations, and fund-raising campaigns.

3 (3) Volunteer [fireman] firefighter comprehends any member
4 of a fire company, organized and existing under the laws of the
5 Commonwealth of Pennsylvania, and also any member of any fire
6 police unit, rescue squad, ambulance corps, or other like
7 organization affiliated with one or more fire companies, and
8 refers to any individual who is a member of such a fire company
9 or affiliated organization and who participates in the fire
10 service, but does not look to that service as his primary means
11 of livelihood. A person shall not lose his or her status as a
12 volunteer [fireman] firefighter solely because he or she may
13 also be a paid firefighter, as long as he or she is acting
14 within the scope of his or her responsibilities as a member of a
15 volunteer fire company at the time and not within the scope of
16 his or her responsibilities as a paid firefighter.

17 Section 3. Sections 3, 4 and 5 of the act are amended to
18 read:

19 Section 3. Statement of Purpose.--The purpose of the
20 Legislature in enacting this statute is to encourage individuals
21 to take part in the fire service as volunteer [firemen]
22 firefighters, by establishing criteria and standards for the
23 orderly administration and conduct of the affairs of [firemen's]
24 firefighters' relief associations, so as to ensure, as far as
25 circumstances will reasonably permit, that funds shall be
26 available for the protection of volunteer [firemen] firefighters
27 and their heirs:

28 (1) To provide financial assistance to volunteer [firemen]
29 firefighters who may suffer injury or misfortune by reason of
30 their participation in the fire service;

1 (2) To provide financial assistance to the widow, children,
2 and/or other dependents of volunteer [firemen] firefighters who
3 lose their lives as a result of their participation in the fire
4 service;

5 (3) To provide, either by insurance or by the operation of a
6 beneficial fund, for the payment of a sum certain to the
7 designated beneficiaries of a participating member in such fund
8 following the death of such member for any cause, and to
9 establish criteria which members must meet in order to qualify
10 as participants in such death benefit fund;

11 (4) To provide safeguards for preserving life, health and
12 safety of volunteer [firemen] firefighters, so as to ensure
13 their availability to participate in the fire service;

14 (5) To provide financial assistance to volunteer [firemen]
15 firefighters who, after having actively participated in the fire
16 service for a specified minimum term, are no longer physically
17 able to continue such participation and are in need of financial
18 assistance;

19 (6) To provide funds to aid the rehabilitation of volunteer
20 [firemen] firefighters who have suffered an impairment of their
21 physical capacity to continue to perform their normal
22 occupations; and

23 (7) In any event, to provide sufficient funds to ensure the
24 efficient and economical handling of the business of the
25 association in accomplishing the objectives hereinabove set
26 forth.

27 Section 4. Construction.--This act shall be construed,
28 applied, and interpreted, so far as circumstances permit, as
29 justifying the actions of the officers and members of volunteer
30 [firemen's] firefighters' relief associations affected by it,

1 when such actions appear to have been taken in good faith and in
2 a bona fide belief that they were in furtherance of the purposes
3 of this act, but shall be strictly construed and applied against
4 those responsible for actions taken in wilful disregard of the
5 purposes of this act, or with reckless indifference to such
6 purposes, and in particular, where any action called into
7 question results or has resulted or was likely to result in an
8 unmerited personal benefit to one or more of those responsible
9 for the taking of such action.

10 Section 5. Structure.--(a) A volunteer [firemen's]
11 firefighters' relief association may be a body corporate,
12 governed by a charter and bylaws, or it may be an unincorporated
13 association of individuals, governed by a constitution and
14 bylaws. In either case, it must provide for the taking and
15 preserving of minutes of all meetings, and the maintenance of
16 such books of account as may be necessary and appropriate to
17 afford a permanent record of its fiscal affairs.

18 (b) The constitution or charter shall state the name, the
19 purposes and the form of the organization, shall designate the
20 class or classes of persons eligible for membership, and the
21 procedures to be followed in making amendments.

22 (c) The bylaws shall specify the requirements for securing
23 membership, the voting rights of different classes of members,
24 if there be different classes, and the conditions under which
25 membership may be terminated. They shall state the notice
26 requirements and the procedure to be followed in calling
27 meetings, as well as the quorum requirements for regular and
28 special meetings of the membership and for regular and special
29 meetings of the body which governs the operations of the
30 association between membership meetings, and shall designate

1 that body, whether it be a board of directors, the trustees, or
2 any similar body, such as an executive committee. Unless
3 otherwise provided in the bylaws, the powers and duties of the
4 officers and directors and/or trustees, shall be such as
5 normally pertain to such positions in nonprofit corporations.
6 The bylaws shall require that the signatures of at least two
7 officers, one of whom shall be the disbursing officer, shall be
8 required in order to bind the association by formal contract or
9 to issue any negotiable instrument. They shall require that the
10 disbursing officer, whether designated treasurer, comptroller,
11 financial secretary, or otherwise, shall be bonded by corporate
12 surety for the faithful performance of his duties. The amount of
13 such bond shall be at least as great as the maximum cash balance
14 in current funds of the association at any time during the
15 fiscal year, and the premium on such bond shall be a proper
16 charge against the funds of the association. The bylaws shall
17 state the procedure to be followed in nominating and in electing
18 officers, trustees, directors, and members of the executive
19 committee, according to such provisions as shall have been made
20 for the establishment of such positions. The bylaws shall
21 establish procedures for the approval of expenditures and the
22 payment thereof, and for the investment of funds and the sale of
23 investments. The bylaws shall set out the procedure to be
24 followed in amending the bylaws, and shall specify the notice
25 required with respect to proposed amendments, including the
26 time, place, and the date when any proposed amendment shall be
27 considered. The bylaws shall be faithfully preserved in
28 permanent form and any amendments made thereto shall be entered
29 thereon with the date when any such amendment became effective.
30 The bylaws may contain any such other provisions as may to the

1 membership seem to be appropriate or necessary to the orderly
2 conduct of the affairs of the association.

3 (d) In addition to the bylaws the association may adopt from
4 time to time such matters as the membership may regard as of a
5 routine nature under the head of standing procedures. Such
6 procedures may be adopted, modified or repealed by motion and
7 majority vote but they shall not be inconsistent with the bylaws
8 and they shall be recorded as an appendix to the bylaws.

9 (e) Any volunteer [firemen's] firefighters' relief
10 association organized or conducted in accordance with the
11 requirements of this section shall be regarded as a charitable
12 corporation for all purposes including the right to establish
13 exemption from the operation of certain taxes.

14 Section 4. Section 6 of the act, amended March 23, 1972
15 (P.L.119, No.44) and March 7, 1982 (P.L.168, No.53), is amended
16 to read:

17 Section 6. Funds.--(a) Any volunteer [firemen's]
18 firefighters' relief association shall have the right to solicit
19 and receive gifts and contributions from any source including
20 municipal corporations. It shall not have the right to receive
21 any portion of the moneys distributed to the political
22 subdivisions of the Commonwealth under the provisions of the act
23 of June 28, 1895 (P.L.408), unless and until the governing body
24 of at least one such political subdivision shall have certified
25 to the Auditor General that such association is in fact a bona
26 fide volunteer [firemen's] firefighters' relief association
27 affiliated with a fire company which affords protection against
28 fire to all or a portion of the political subdivision.

29 (b) The funds of any volunteer [firemen's] firefighters'
30 relief association may be deposited in any bank, trust company,

1 or other banking establishment accredited by the Commonwealth or
2 insured by the Government of the United States.

3 (c) All, or any part of the funds of any volunteer
4 [firemen's] firefighters' relief association may be invested:

5 (1) In any form of investment named in the Fiduciaries Act
6 of 1949, as amended, including first mortgages. Such first
7 mortgages insuring repayment of loans by relief associations
8 must provide for a minimum interest payment of three per cent
9 and not exceed eighty per cent of the appraised value of the
10 real property covered by the mortgage.

11 (2) In any obligation of a political subdivision, having the
12 power to levy or collect taxes, or

13 (3) In any obligation of an incorporated fire company which
14 obligation is secured by assets of the company having capital
15 value equal to at least one hundred fifty per cent of the amount
16 of the obligation at the time it is made, and is subject to
17 provisions which will amortize such loan at a rate ensuring that
18 the depreciated value of the assets pledged shall continue to be
19 at least equal to one hundred fifty per cent of the balance
20 remaining due.

21 (d) No investment shall be acquired, encumbered or sold
22 except pursuant to a resolution duly enacted by the governing
23 body of the association. The income from investments however may
24 be invested or spent in the same way as any other income.

25 (e) The funds of any volunteer [firemen's] firefighters'
26 relief association may be spent:

27 (1) To pay for such normal and reasonable running expenses
28 as may be appropriate to the businesslike conduct of its affairs
29 including legal fees and including but not by way of limitation
30 the rental or purchase of offices, the payment of reasonable

1 compensation of any needed employes, and the purchase of office
2 equipment and supplies.

3 (2) To purchase contracts of insurance which shall at the
4 least afford financial assistance to active members of the fire
5 service represented by the association against losses due to
6 injury suffered in the fire service and which may also provide
7 in the order named, (i) for payments to the [widow] surviving
8 spouse or other dependents of a member in the event of [his] the
9 member's death, (ii) for protection of active [firemen]
10 firefighters against disease, (iii) for the replacement or
11 purchase of prosthetic devices such as visual aids, hearing
12 aids, dentures, braces, crutches, and the like, where such
13 devices have been lost or damaged while the owner was engaged in
14 the fire service or where the need for such devices arises
15 because of functional impairment attributable to participation
16 in the fire service, (iv) for the repair or replacement if
17 necessary of articles of clothing or pocket pagers damaged or
18 lost in the course of participation in the fire service, and (v)
19 for disability incurred after service for a minimum of twenty
20 years as a volunteer [fireman] firefighter.

21 (3) To maintain a beneficiary or death benefit fund and to
22 pay a sum certain from that fund to the beneficiary of any
23 participant in that fund upon his or her death. In the event a
24 beneficiary is not designated or a designated one has
25 predeceased the participant, the sum certain shall be paid to
26 the estate of the participant.

27 (4) To pay in full or in part for damage or loss in any of
28 the categories mentioned in clause (2) above in any specific
29 case in which (i) no policy of insurance is in force which
30 covers the risk, or (ii) the amount payable under insurance

1 policies in force is inadequate to cover the loss.

2 (5) To pay the costs of procuring and forwarding tokens of
3 sympathy and goodwill. To a volunteer [fireman] firefighter who
4 may be ill or hospitalized as a result of participation in the
5 fire service or who may die or who may be seriously ill for any
6 reason.

7 (6) To make cash payments to families in distressed
8 circumstances by reason of age, infirmities or other
9 disabilities suffered by one of the family in the course of his
10 or her participation in the fire service as a volunteer
11 [fireman] firefighter.

12 (7) To acquire and maintain membership in any Statewide
13 association or corporation which extends advice and assistance
14 to [firemen's] firefighters' relief associations in the conduct
15 of their affairs and to pay reasonable expenses of travel and
16 maintenance to a duly elected delegate for attendance at such
17 meetings of such Statewide association or corporation.

18 (8) To contribute or to purchase contracts of insurance
19 which will contribute towards the costs of rehabilitating and
20 retraining volunteer [firemen] firefighters who by reason of
21 their participation in the fire service have suffered a major
22 impairment of their ability to continue their vocation.

23 (9) To pay for medical and surgical bills arising from
24 injuries sustained by volunteer [firemen] firefighters while
25 engaged in activities of the fire company to the extent that
26 said bills are not covered by insurance provided by the relief
27 association.

28 (10) To pay reasonable expenses actually and necessarily
29 incurred for attending bona fide [firemen's] firefighters'
30 training schools.

1 (11) To purchase safeguards for preserving life, health, and
2 safety of volunteer [firemen] firefighters, so as to ensure
3 their availability to participate in the volunteer fire service.

4 (12) To secure insurance against the legal liability of the
5 volunteer [firemen] firefighters for loss and expense from
6 claims arising out of the performance of their official,
7 authorized duties while going to, returning from or attending
8 fires or while performing their duties as special fire police.

9 (13) To maintain comprehensive health, physical fitness and
10 physical monitoring programs that provide for physical fitness
11 activities, nutrition education and instruction and health and
12 fitness evaluation and monitoring. The programs shall be
13 approved by the nearest State-licensed health care facility
14 which is authorized to provide the service.

15 (14) To purchase exercise and fitness equipment for use by
16 volunteer firefighters. Expenditures for exercise and fitness
17 equipment shall not, however, exceed \$2,000 in any two-year
18 period.

19 (15) To purchase fire hoses, nozzles and fire prevention
20 materials for outside distribution.

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

22 Section 6.1. Cooperation Agreements.--Two or more volunteer
23 firefighters' relief associations may jointly cooperate to enter
24 into agreements to make expenditures that are authorized under
25 this act. A joint cooperation agreement may be enforced by and
26 against a volunteer firefighters' relief association.

27 Section 6. Sections 7 and 8 of the act are amended to read:

28 Section 7. Audits.--(a) The Department of the Auditor
29 General shall have the power, and its duty shall be, to audit
30 the accounts and records of every volunteer [firemen's]

1 firefighters' relief association receiving any money under the
2 act of June 28, 1895 (P.L.408), as amended, as far as may be
3 necessary to satisfy the department that the money received was
4 expended or is being expended for no purpose other than that
5 authorized by this act. Copies of all such audits shall be
6 furnished to the Governor.

7 (b) If at any time the Department of the Auditor General
8 shall find that any money received by a volunteer [firemen's]
9 firefighters' relief association has been expended for any
10 purpose other than those authorized by this act, it shall
11 forthwith notify the Governor, and shall decline to approve any
12 further requisition calling for payment to such volunteer
13 [firemen's] firefighters' relief association, until an amount
14 equal to that improperly expended shall have been reimbursed to
15 the relief association fund.

16 Section 8. Dissolution.--(a) If a majority of those voting
17 in a referendum conducted in any political subdivision shall
18 decide in accordance with the act of June 13, 1955 (P.L.173), to
19 replace a volunteer fire company serving such subdivision with a
20 full-paid fire department or company and the volunteer company
21 so replaced ceases to render fire service to any community it
22 shall withdraw from the volunteer [firemen's] firefighters'
23 relief association which theretofore extended protection to its
24 membership.

25 (b) In accordance with the above action the relief
26 association shall continue to function as heretofore granting
27 financial assistance to its remaining members and their families
28 in death, sickness and distress suffered through the unfortunate
29 elements of life.

30 (c) The volunteer [firemen's] firefighters' relief

1 association so functioning shall not receive any new members.

2 (d) When the membership roll of the relief association so
3 functioning shall diminish to five members it shall apply to the
4 local common pleas court for dissolution.

5 (e) Said court shall direct that all bills including the
6 costs of dissolution be paid and the balance of the funds in the
7 treasury be paid to the pension fund of the paid fire department
8 so created by the governing body of the local political
9 subdivision.

10 Section 7. This act shall take effect in 60 days.