

Volunteer Firefighters' Compensation Act (VFCA)
Statute Rewrite Committee
MPERA Board Room, Suite 200
March 8, 2010

VFCA Rewrite Committee Members: Barbara Quinn , Mary Ann Sutton, Diann Levandowski
MPERA Executive Director: Roxanne Minnehan

1:00 I. Introductions and Background

- A. Purpose of a VFCA re-write
- B. Table of changes
- C. Draft of revisions
- D. Limited to volunteer firefighters in unincorporated areas

1:30 II. Issues

- A. Title 7 Chapter 33 issues
- B. Compensation vs. Expense reimbursement
- C. Penalties sufficient?
- D. Limit the ability to file late annual certificates (ARM 2.43.5002)
 - a. Number of times for a single year.
 - b. Number of past years.
- E. Timing of filings
 - a. VFCA Annual Certificate filing (Sept 1)
 - 1. Change to August 1st (would 30 days be sufficient?)
 - b. County Clerk filing (Sept 1)
 - 1. Purpose of filing
 - 2. What is allowed to be filed vs. what should be filed (7-33-2311)
 - c. VFCA Supplemental (Dec 31st)
 - 1. Could other documentation be substituted for the CC filing?

2:30 -2:45 Break

2:45 III. Other issues/Questions

- A. VFC requirements and authority for records management
- B. VFC members full time resident of State of Montana
- C. VFC members should reside in general area of VFC
- D. Other Issues

3:40 IV. Additional comments regarding the draft

4:00 V. Adjournment

Montana Public Employee Retirement Administration
VFCA Rewrite Bill Table
Last updated 03/01/2010

Current code section	Proposed change	Reason	Notes
19-17-102(5)	Defn of Compensation	To clarify	
19-17-102(5)	Defn of Department	Deleted	
19-17-102(13)	Defn of Reimbursement	To clarify	Spell out expense reimbursement
	Expense reimbursement to VFC members		Gas cards Call pay (DL) 1/5/2010 New IRS Private Letter Ruling IRC Section 132(a)(4)
19-17-102(16)	Defn of Supplemental Insurance	To clarify	
19-17-102(20)	Defn of Volunteer Firefighter	To clarify	
19-17-102(21)	Defn of Workers Compensation Insurance	To clarify	
19-17-103 changed to 19-17-205	As an expense to the system, we thought it better located under Part 2 Administration of Fund.	We have heard from Tom Woods, the insurer for most departments' supplemental insurance that the insurance company(s?) is considering to not offer this type of insurance.	We later heard that this is not true.
19-17-106(3)	Changed "department" to "board"		
19-17-105 changed to 19-17-109		Renumbered subsection for continuity	

Current code section	Proposed change	Reason	Notes
19-17-108 changed to 19-17-110		Renumbered subsection for continuity	
19-17-111	-Limits on the number of years that a VFC can obtain in the VFCA -Limit the ability to file late annual certificates		ARM 2.43.5002
19-17-104. <u>Correction and penalties</u> 19-17-104 changed to 19-17-112	Errors that are found will be corrected by MPERA staff. (through audit or other?)	Renumbered subsection for continuity	Beefing up the reporting error process
19-17-112	Are penalties sufficient?		Coordinate with General Revision Bill
19-17-201(2)	Changed “department” to “board”		
19-17-201(4)	Changed standard of living		
19-17 Part 4	Moved disability provisions to new Part 6	All other chapters have separate disability parts. VFCA should also have disability separated so it is easier to understand.	We choose part 6 because it was the next available and three other chapters are consistent with having disability in part 6.
New Part 6 19-17-601 thru 605	Disability Benefits	All other chapters have separate disability parts. VFCA should also have disability separated so it is easier to understand.	We choose part 6 because it was the next available and three other chapters are consistent with having disability in part 6.
19-17-402 7-33-2311	Departments are allowed by law to file the annual certificate with the county clerk - NOT	Reasons this should not be allowed: 1) the AC has name, SSN, and	BQ

Current code section	Proposed change	Reason	Notes
	<p>OUR CHAPTER 7-33-2311. Fire companies authorized. (1) Fire companies in unincorporated towns and villages are organized by filing with the county clerk of the county in which they are located a certificate in writing, signed by the presiding officer and secretary, providing the date of organization, name, officers, and roll of active and honorary members or a copy of the certificate provided for in 19-17-402. The certificate and filing must be renewed annually on or before September 1.</p>	<p>DOB for only those members that were members for the full year and had 30 hrs of training; 2) the document becomes a public document when filed; 3) The AC lists members of the past FY while the intent of filing with the CC is to give a list of all current members for reasons related to Part 5.</p>	
	<p>Members of VFC have to be full time residents of the state of MT</p>		
	<p>Members should reside in general area of the VFC</p>	<p>How else does one timely report for a fire?</p>	
	<p>Reduce paperwork</p>		<p>Comment from fire chief</p>
	<p>Benefit of \$150 has not kept up with times nor the amount of work required</p>		<p>Comment from fire chief</p>

19-17-101. Short title. This chapter shall be known and may be cited as the "Volunteer Firefighters' Compensation Act".

19-17-102. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Active member" means a volunteer firefighter credited with service under this chapter during the most recently reportable fiscal year.

(2) "Benefit" means the pension, disability, or survivorship benefit provided under this chapter.

(3) "Board" means the public employees' retirement board provided for in 2-15-1009.

(4) "Claim" means a request from a member, surviving spouse, or dependent child for payment of medical or funeral expenses.

(5) "Compensation" means remuneration for services rendered as a firefighter.

~~(5) "Department" means the department of administration.~~

(6) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who is the child of a deceased member.

(7) "Designated official" means a representative of a fire company appointed by the fire chief to perform specified actions and includes but is not limited to a fire company supervisor, a fire company secretary, and a fire company presiding officer as described in 7-33-2312.

(8) "Disability" or "permanent total disability" means permanent total disability as defined in 39-71-116.

(9) "Fire company" means a fire company organized under 7-33-2311 in an unincorporated area, town, or village and includes a volunteer fire department, a fire district, and a fire service area created under the provisions of Title 7, chapter 33.

(10) "Fiscal year" means the 12-month period that begins on July 1 and ends on June 30 of the following year.

(11) "Member" means a volunteer firefighter who has service credited under this chapter.

(12) "Pension trust fund" means the volunteer firefighters' pension trust fund established to pay claims and benefits under this chapter.

(13) "Reimbursement" means a return of an equivalent amount of money expended by a member for the benefit of the fire department.

~~(13)~~(14) "Retiree" or "retired member" means a member who is receiving full or partial participation benefits or disability benefits from the pension trust fund.

~~(14)~~(15) "Service" means cumulative periods of active membership that are credited only in full fiscal year increments.

~~(15)~~(16) "Supplemental insurance" means insurance that is carried by a fire company for the purposes of providing disability or death benefits, ~~and that is in addition to any insurance required by law, including workers' compensation insurance.~~

~~(16)~~(17) "Surviving spouse" means the spouse married to a member when the member dies.

~~(17)~~(18) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent child of a deceased member.

Comment [BQ1]: Why do we reference the Department of Administration?

Comment [BQ2]: Build table to compare the way entities are established.

Comment [BQ3]: Contradicts another part of statute. On 1 25 10 we discovered that this does not contradict, it is stating that supplemental insurance must exist regardless but workers compensation is not usually held by rural fire departments because they do not have employees. For this reason we have re-written the law to be more understandable and added a definition of Workers Compensation Insurance.

~~(18)~~(19) "Training" means instruction pertaining to firefighting that is supervised by the chief or a designated official.

~~(19)~~(20) "Volunteer firefighter" means a person who is an active member of an eligible fire company and does not receive compensation is not compensated for services as a firefighter.

~~(20)~~(21) "Workers' Compensation Insurance" means insurance that is carried by an employer as required by law. Workers' Compensation Insurance is not applicable to volunteer companies because volunteers are not employees.

Comment [BQ4]: Big issues with compensation recently.

~~19-17-103. Payments to fire companies maintaining supplemental insurance. To encourage and aid fire companies to maintain supplemental insurance to provide benefits when members are injured or killed while performing duties as volunteer firefighters, the board shall authorize payment of \$75 per year for each motorized mobile unit of firefighting equipment, not to exceed \$150 per fire company per year. Payment must be a charge against the pension trust fund and must be paid to each fire company maintaining supplemental insurance or to the organization or agency maintaining supplemental insurance for a fire company.~~

Comment [BQ5]: Move supplemental process to 19-17-109 (the end). Hard to jump right into supplemental without knowing anything else about plan.

~~19-17-104. Correction and penalties. (1) (a) If a change or error in the records results in a member receiving more or less credit for service than the member would have been entitled to receive had the records been correct, then, on discovery of the error, the retirement board shall correct the error and, as far as practicable, adjust the credit for service.~~

~~(b) Upon discovery of falsified information on an Annual Certificate or training records, the member record must be corrected.~~

Comment [PERLAP6]: Credit for service is a term used in VFCA.

~~(2) Penalty for false statements or claims. A person required to make a statement or affidavit by this chapter who willfully falsifies the statement or affidavit or a person who files a false claim under this chapter is guilty of a misdemeanor and upon conviction shall be punished by a fine in an amount not exceeding \$1,000 or by imprisonment for a term not exceeding 1 year, or both.~~

~~19-17-105. Duties of volunteer firefighters. The duties of a volunteer firefighter include any activity authorized by an officer of the fire company relating to travel to, participation in, and return from calls for fire protection, fire company meetings, training, medical assistance, search and rescue assistance, public service activities, such as parades, and calls for assistance to protect individual or public health and safety.~~

Comment [c7]: Duties vs. training. FC mtgs do not count as training.

19-17-106. Pension trust fund established -- restrictions on use. (1) A pension trust fund is established and maintained for payment of claims and benefits provided under the Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan.

(2) The pension trust fund must be funded on an actuarially sound basis. For purposes of this subsection, "actuarially sound basis" means that contributions must be sufficient to pay the full actuarial cost of the fund. The full actuarial cost includes both the normal cost of providing benefits as they accrue in the future and the cost of amortizing unfunded liabilities over a scheduled period of no more than 30 years.

Comment [c8]: Necessary phrase? Seems repetitive.

(3) Except as provided in this section, a member or an employee of the ~~department board~~ or the board of investments may not:

(a) have any interest, direct or indirect, in the making of any investment or in the gains or profits accruing from the pension trust fund;

(b) directly or indirectly, for the member or employee or as an agent or partner of others, borrow from the pension trust fund or deposits;

(c) in any manner use the pension trust fund except to make current and necessary payments that are authorized by the board; or

(d) become an endorser or surety as to or in any manner an obligor for investments for the pension trust fund.

(4) The assets of the pension trust fund may not be used for or diverted to any purpose other than for the exclusive benefit of members, their surviving spouses, their dependent children, and qualified fire companies and for paying the reasonable administrative expenses of administering this chapter.

(5) Upon the termination of the pension trust fund, the substantial reduction in the number of members that would constitute a partial termination of the pension trust fund, or the complete discontinuance of contributions to the pension trust fund, the pension benefit accrued to each member directly affected by the occurrence becomes fully vested and nonforfeitable to the extent that the benefit is funded.

19-17-107. Employment of actuary -- annual investigation and valuation. (1) The board shall retain a competent actuary who is an enrolled member of the American academy of actuaries and who is familiar with public pension systems. The actuary is the technical adviser to the board on matters regarding the actuarial funding of the pension trust fund.

(2) The board shall require the actuary to make an annual actuarial valuation of the assets and liabilities of the pension trust fund. The actuarial valuation must include the sufficiency of the fund to pay full and partial benefits to members and benefit recipients and must include recommendations for any changes that should be made to those benefits or the contributions to the pension trust fund to ensure the actuarial soundness of the pension trust fund.

(3) The board shall require the actuary to conduct periodic actuarial experience studies of the pension trust fund and to recommend any changes in actuarial assumptions or tables based upon the studies.

~~19-17-108. Credit for service as volunteer firefighter — records. (1) The annual period of service that may be credited under this chapter is the fiscal year. A fractional part of a year may not count toward the service required for participation in this system. To be eligible to receive credit for any particular year, a volunteer firefighter shall serve with a fire company throughout the entire fiscal year.~~

~~———— (2) The years of service are cumulative and need not be continuous. Separate periods of service properly credited with different fire companies must be credited toward a member's eligibility for full or partial benefits.~~

~~———— (3) A volunteer firefighter must receive credit for service during any fiscal year if:~~

~~_____ (a) during the fiscal year, the volunteer firefighter completes a minimum of 30 hours of training in matters pertaining to firefighting under a formal program that has been formulated, supervised, and certified to the board by the chief or designated official of the fire company;~~
~~_____ (b) the volunteer firefighter's participation in the training program is documented in the fire company's records filed and maintained by the chief or designated official; and~~
~~_____ (c) the fire company maintained firefighting equipment that is in serviceable condition and owns, rents, or uses one or more buildings used for the storage of that equipment that all together are valued at \$12,000 or more.~~
~~_____ (4) The chief or designated official of each fire company shall keep and maintain training records for each current and former volunteer firefighter who is or was a member of the fire company.~~

19-17-405(109). Duties of volunteer firefighters. The duties of a volunteer firefighter include any activity authorized by an officer of the fire company relating to travel to, participation in, and return from calls for fire protection, fire company meetings, training, medical assistance, search and rescue assistance, public service activities, such as parades, and calls for assistance to protect individual or public health and safety.

Comment [c9]: Duties vs. training. FC mtgs do not count as training.

19-17-408(110). Credit for service as volunteer firefighter -- records. (1) The annual period of service that may be credited under this chapter is the fiscal year. A fractional part of a year may not count toward the service required for participation in this system. To be eligible to receive credit for any particular year, a volunteer firefighter shall serve with a fire company throughout the entire fiscal year.

_____ (2) The years of service are cumulative and need not be continuous. Separate periods of service properly credited with different fire companies must be credited toward a member's eligibility for full or partial benefits.

_____ (3) A volunteer firefighter must receive credit for service during any fiscal year if:

_____ (a) during the fiscal year, the volunteer firefighter completes a minimum of 30 hours of training in matters pertaining to firefighting under a formal program that has been formulated, supervised, and certified to the board by the chief or designated official of the fire company;

_____ (b) the volunteer firefighter's participation in the training program is documented in the fire company's records filed and maintained by the chief or designated official; and

_____ (c) the fire company maintained firefighting equipment that is in serviceable condition and owns, rents, or uses one or more buildings used for the storage of that equipment that all together are valued at \$12,000 or more.

_____ (4) The chief or designated official of each fire company shall keep and maintain training records for each current and former volunteer firefighter who is or was a member of the fire company.

19-17-111. Failure to file required reports and limitations on filing. (1) In order to receive credit for service under the VFCA, volunteer fire companies must file an annual certificate with MPERA. The certification is a report by the fire chief or designated official that the members listed on the certificate were active for the full fiscal year and also had the required 30 hours of

training. This report is on a fiscal year basis (July through June) and is due by September 1 of each year. The annual certificate is signed by the fire chief or designated official and notarized. Annual certificate forms are provided by MPERA.

Comment [PERLAP10]: Change to August 1

(2) Acceptance of annual certificates filed after the September 1 due date is limited to (a) ten years prior to the current fiscal year, and (b) only one additional filing per year filed.

Comment [PERLAP11]: Thoughts?

(3) Late filed annual certificates must be appealed to and considered by the board for approval. Information provided to the board by the fire chief or designated official must include: (a) the original, notarized annual certificate; (b) certified training documents showing the required 30 hours of training per listed member; (c) a letter from the fire chief explaining why the annual certificate was not filed timely; and (d) if requested by the fire chief, oral argument before board.

19-17-404(112). Correction and penalties. (1) (a) If a change or error in the records results in a member receiving more or less credit for service than the member would have been entitled to receive had the records been correct, then, on discovery of the error, the retirement board shall correct the error and, as far as practicable, adjust the credit for service.

Comment [PERLAP12]: Credit for service is a term used in VFCA.

(b) Upon discovery of falsified information on an Annual Certificate or in training records, the fire company is responsible to submit any and all necessary documentation in order that the board can correct the member record.

Comment [PERLAP13]: Are there other penalties that would apply? Charge for staff time similar to FLOs?

(2) Penalty for false statements or claims. A person required to make a statement or affidavit by this chapter who willfully falsifies the statement or affidavit or a person who files a false claim under this chapter is guilty of a misdemeanor and upon conviction shall be punished by a fine in an amount not exceeding \$1,000 or by imprisonment for a term not exceeding 1 year, or both.

19-17-201. Administration of chapter. (1) The board is the trustee of all money collected under this chapter and has exclusive control of the administration of the pension trust fund except as otherwise provided by law.

(2) The ~~department~~ board shall deposit in the state treasury all amounts received by it as provided in this chapter.

(3) The state treasurer is the custodian of the pension trust fund, subject to the control of the board for the administration of the fund and the board of investments for the investment of the fund.

(4) The board shall review the ~~sufficiency of~~ benefits provided under this chapter and recommend to the legislature those changes in benefits that may be necessary available for retired members and their beneficiaries to maintain a stable standard of living.

Comment [PERLAP14]: Better word?

19-17-202. Reports of board. (1) As soon as practical after the close of each fiscal year, the board shall file with the governor a report covering administration of the Volunteer Firefighters' Compensation Act for that fiscal year.

(2) The report must include:

- (a) a statement of the accumulated cash and securities in the pension trust fund as certified by the state treasurer and the board of investments; and
- (b) the most recent published report of the actuary of the actuarial valuation of the assets and liabilities of the plan.

19-17-203. Rules to be made by board. The board shall make such rules as it considers necessary and advisable in its administration of the Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan, not inconsistent with the provisions thereof.

19-17-204. Administrative expenses. Necessary expenses for the administration of the Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan are a charge against the pension trust fund. The necessary administrative expenses attributable to this chapter must be paid from the investment earnings on the public employees' pension trust fund. Before fiscal yearend closing, the board shall compute the expenses directly or proportionally attributable to this chapter over the past fiscal year and transfer that amount from the volunteer firefighters' pension trust fund to the public employees' pension trust fund.

19-17-~~403~~205. Payments to fire companies maintaining supplemental insurance. To encourage and aid fire companies to maintain supplemental insurance to provide benefits when members are injured or killed while performing duties as volunteer firefighters, the board shall authorize payment of \$75 per year for each motorized mobile unit of firefighting equipment, not to exceed \$150 per fire company per year. Payment must be a charge against the pension trust fund and must be paid to each fire company maintaining supplemental insurance or to the organization or agency maintaining supplemental insurance for a fire company.

Comment [BQ15]: Move supplemental process to 19-17-109 (the end). Hard to jump right into supplemental without knowing anything else about plan.

19-17-301. Fire insurance premium tax to be paid into pension trust fund. The state auditor shall annually pay from the general fund to the pension trust fund a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance against risks enumerated in 50-3-109. The sum must be computed before the amounts provided for by 19-13-604, and 19-18-512 are deducted. The money must be used for the payment of claims, benefits, and administrative costs as provided in this chapter. The money is statutorily appropriated as provided in 17-7-502.

19-17-302. Investment of pension trust fund. (1) The pension trust fund must be invested by the board of investments as part of the unified investment program described in Title 17, chapter 6, part 2.

(2) All income earned on any assets constituting a part of the pension trust fund must be paid into the pension trust fund as received.

(3) For investment purposes, the pension trust fund may be commingled with other pension funds administered by the board, but a separate account must be maintained for each system.

19-17-401. Eligibility for pension ~~and disability~~ benefits. (1) To qualify for a ~~full pension, partial pension, or disability~~ benefit under this chapter, a member shall meet the requirements of subsections (2) or (3) and (4).

(2) (a) For a full pension benefit, a member must have completed 20 years of service and must have attained 55 years of age, but need not be an active member of a fire company when 55 years of age is reached.

(b) A member who ~~is prevented from completing~~ does not complete at least 20 years of service may qualify for a partial pension benefit if the member has completed at least 10 years of service and has attained 60 years of age, but need not be an active member of any fire company when 60 years of age is reached.

~~(3) An active member of a fire company whose duty related injury results in permanent total disability, as defined in 39-71-116 and determined pursuant to 19-17-410, is eligible, regardless of age or service, to receive a disability benefit.~~

~~(4)(3)~~ Except as provided in subsection ~~(5)(4)~~:

(a) to receive a pension ~~or disability~~ benefit, a volunteer firefighter may not be an active member of any fire company; and

(b) a volunteer firefighter who receives a pension ~~or disability~~ benefit under this chapter may not become an active member of any fire company.

~~(5)(4)~~ A member who is receiving a full pension benefit, as provided in 19-17-404, may return to service with a volunteer fire company without loss of benefits. A member returning to service under this section may not be considered an active member earning service credit. The fire chief shall prescribe the duties of any retired volunteer firefighter returning to service.

19-17-402. Certificate of eligibility. The chief or designated official of each fire company that claims eligibility under this chapter shall, on or before September 1 of each year, file a certificate on a form to be provided by the board, subscribed and verified under oath before a notary, stating whether the fire company qualified under 19-17-108(3) during the preceding fiscal year. The certificate must contain the date of organization. The certificate must list the full name, social security number, and date of birth of each member of the fire company who was a member for the entire fiscal year and satisfactorily completed 30 hours of training during the preceding fiscal year, as required by 19-17-108(3). The certificate must be maintained by the board for the purpose of establishing service for members and eligibility for benefits.

19-17-403. Application for benefits. (1) A member may, as provided in this section, apply for retirement benefits before terminating service, but commencement of the benefits must be as provided in 19-17-411.

(2) A member, surviving spouse, or dependent child shall apply for benefits on a form provided by the board.

(3) The application must contain:

(a) the name, address, and date of birth of the member, surviving spouse, or dependent child;

(b) the date of birth of the member;

(c) the date of the member's death, if applicable; and
(d) the fiscal years during which service as an active member is claimed and the names of the fire companies with which the service was rendered.

(4) The board may require any proof of age, death, and service that it may consider proper, but it must accept a certificate properly completed and timely filed under 19-17-402 or subsection (3) of section 22, Chapter 157, Laws of 1977, as prima facie proof of service.

19-17-404. Amount of pension and disability benefits. (1) ~~Each eligible A member must be eligible to receive a pension or disability benefit as provided in this section.~~

(2) (a) Except as provided in subsection (2)(c), the full pension benefit paid to eligible members is \$150 a month.

(b) A partial pension benefit is calculated by multiplying the full pension benefit in subsection (2)(a) by a fraction, the numerator of which is the eligible member's years of service and the denominator of which is 20.

(c) The full pension benefit of a member who continued to be an active member after completing 20 years of service must be increased by \$7.50 a month for each additional year of active service the member completed after 20 years of service, up to 30 total years of service.

~~(3) The disability benefit paid to an eligible member is calculated in the same manner as partial pension benefits described in subsection (2)(b), except that the numerator may not be less than 10.~~

~~(4)~~(3) If any ***** fraudulent change or any inadvertent mistake in records results in any member, surviving spouse, or dependent child receiving more or less than entitled to, then on the discovery of the error, the board shall correct the error and adjust the payments to the member, surviving spouse, or dependent child in an equitable manner.

19-17-405. Survivorship benefits to surviving spouse or dependent children. (1) Subject to subsection (2) and the limitation in subsection (4), survivorship benefits equal to the full or partial pension benefits otherwise payable to the deceased member must be paid or continue to be paid to:

(a) the surviving spouse, unless the spouse is convicted of knowingly, purposely, or intentionally causing a member's death or disability;

(b) the dependent children upon the spouse's death; or

(c) if the deceased member left no surviving spouse but left a dependent child, to the guardian or other person having custody of the dependent child.

(2) Benefits payable to a dependent child must be paid pursuant to 19-2-803.

(3) The survivorship benefit must be paid in each of the following circumstances:

(a) the death on or after July 1, 1995, of a member who had at least 10 years of service and who was not receiving pension benefits; or

(b) the death on or after July 1, 1985, of a retired member who was receiving pension benefits but who had not received benefits for a total of 40 months.

(4) Survivorship benefits under subsection (1) terminate when benefits have been paid for a total of 40 months, including any pension or disability benefits paid to the retiree before death. At the request of the recipient, a lump-sum payment may be made in lieu of up to 40 months of survivorship benefits.

19-17-406. Termination of pension when no surviving spouse or child. If a deceased volunteer firefighter leaves neither a surviving spouse nor a child under 18 years of age, the firefighter's pension must terminate at the end of the month prior to the month in which the death occurs.

19-17-407. Exemption from taxation and legal process. (1) The amount determined pursuant to 15-30-2110(2)(c) of benefits received under this part is exempt from state, county, and municipal taxation.

(2) Benefits received under this part are not subject to execution, garnishment, attachment, or any other process.

~~19-17-408. Medical review of certain disability retirees. The board may require a member who receives a disability benefit to undergo periodic medical examinations. The examinations must be made by a board-approved physician or surgeon at a place mutually agreeable to the board, the physician or surgeon, and the member and at the board's expense. Upon the basis of these examinations and the advice of the board's consulting physician, the board shall determine, by reason of physical or mental capacity, whether the member remains permanently and totally disabled.~~

~~19-17-409. Cancellation and reinstatement of disability benefits. (1) The board may cancel a member's disability benefit if:~~

~~(a) the board determines, as provided in 19-17-408, that the member is no longer disabled;~~

~~(b) the member refuses to submit to a medical examination under 19-17-408; or~~

~~(c) the member engages in a gainful occupation during the previous year and earns compensation exceeding \$5,500.~~

~~(2) The cancellation of a disability benefit under this section does not prejudice any right of a member to other pension benefits payable under the Volunteer Firefighters' Compensation Act.~~

~~(3) If the member's earnings in any year after the cancellation of disability benefits under subsection (1)(c) are less than \$5,500, the disability benefit must be reinstated.~~

~~19-17-410. Determination of disability. (1) The board shall determine whether a member has become disabled. In the discharge of its duty regarding determinations, the board, any member of the board, or any authorized representative of the board may order medical examinations, conduct contested case hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with a claim for disability benefits.~~

~~(2) The board shall retain medical personnel to advise it in initially determining the nature and extent of disabling conditions.~~

19-17-411. Time benefits commence. (1) The pension benefit payable pursuant to this part may commence on the first day of the month following the eligible member's last day of service or on the first day of a later month following filing of the written application.

~~(2) The disability retirement benefit payable pursuant to this part must commence on the day following the member's termination from service.~~

~~(3)~~(2) Monthly survivorship benefits payable pursuant to this part must commence on the day following the death of the member.

19-17-501. Eligibility for medical and funeral expenses. (1) To qualify for medical expenses under 19-17-504, a volunteer firefighter must be an active member of a fire company that is not covered by workers' compensation insurance when the injury or illness occurs.

(2) To qualify for funeral expenses under 19-17-505, a volunteer firefighter must, at the time of death, be an active member of a fire company.

19-17-502. Procedure for claiming medical expenses. (1) A member who claims medical expenses under 19-17-504 shall submit a claim on a form provided by the board. The claim must be verified by the member and by competent medical authority. The claim must be submitted within 1 year from the date of incurring the injury or illness.

(2) The claim must contain:

(a) the name and address of the member;

(b) the date, place, and manner of incurring the injury or illness;

(c) the name and address of the attending physician, surgeon, or nurse, if any;

(d) the dates of hospitalization, if hospitalized;

(e) an affidavit from the attending physician, surgeon, or nurse that describes the nature of the injury or illness, the number and dates of visits, and the expenses;

(f) if hospitalized, an affidavit from competent authority stating the nature of the injury or illness, the dates of hospitalization, and the expenses;

(g) an affidavit from the chief or designated official of the fire company stating that the fire company was organized under the laws of Montana in an unincorporated town or village, that the member was, at the time of the injury or illness, an active member of the company, and that the injury or illness was incurred in the line of duty as described in 19-17-105.

19-17-503. Procedure for claiming funeral expenses. A person claiming the funeral expenses provided for in 19-17-505 shall submit the claim on a form provided by the board, in accordance with the board's rules.

19-17-504. Medical expenses. (1) The board shall authorize payment of some or all medical expenses resulting from an injury or illness that was incurred in the line of duty, as

described in 19-17-105, and that required the services of a physician, surgeon, or nurse, whether or not the member was hospitalized. The payments must equal the amount of the member's necessary and reasonable out-of-pocket medical expenses that resulted directly from the injury or illness and that were billed within 36 months following the date of the injury or illness. The member shall file a claim for reimbursement within 12 months of the date of the bill. The total claim for reimbursement may not exceed \$25,000.

(2) If an injury incurred in the line of duty results in the loss by amputation of an arm, hand, leg, or foot, the enucleation of an eye, or the loss of any natural teeth, the board shall authorize either a payment for the cost of a prosthesis or a payment of \$1,500 to help defray the cost of a prosthesis, whichever is less. The prosthesis may be replaced when necessary, but not more often than every 5 years. The board shall authorize payment of not more than \$1,500 of the replacement costs.

19-17-505. Funeral expenses. The board shall authorize payment of reasonable expenses or \$1,500, whichever is less, to aid in defraying the funeral expenses of an active member whose death occurs in the line of duty.

19-17-506. Payment of medical and funeral expenses. When a claim under 19-17-504 or 19-17-505 is received and approved by the board, payment must be made directly to the appropriate provider of the medical care or funeral services.

NEW PART 6 – DISABILITY

19-17-~~401~~601. Eligibility for ~~pension and~~ disability benefits. (1) To qualify for a ~~full pension, partial pension, or~~ disability benefit under this chapter, a member shall meet the requirements of subsections ~~(2) or~~ (3) and (4).

~~(2) (a) For a full pension benefit, a member must have completed 20 years of service and must have attained 55 years of age, but need not be an active member of a fire company when 55 years of age is reached.~~

~~(b) A member who is prevented from completing at least 20 years of service may qualify for a partial pension benefit if the member has completed at least 10 years of service and has attained 60 years of age, but need not be an active member of any fire company when 60 years of age is reached.~~

(3) An active member of a fire company whose duty-related injury results in permanent total disability, as defined in 39-71-116 and determined pursuant to 19-17-410, is eligible, regardless of age or service, to receive a disability benefit.

(4) ~~Except as provided in subsection (5)~~ A volunteer firefighter who receives a disability benefit:

(a) ~~to receive a pension or disability benefit, a volunteer firefighter may not be an active member of any fire company; and~~

(b) ~~a volunteer firefighter who receives a pension or disability benefit under this chapter may not become an active member of any fire company.~~

~~(5) A member who is receiving a full pension benefit, as provided in 19-17-404, may return to service with a volunteer fire company without loss of benefits. A member returning to~~

service under this section may not be considered an active member earning service credit. The fire chief shall prescribe the duties of any retired volunteer firefighter returning to service.

19-17-404 ~~602~~. Amount of pension and disability benefits. (1) Each eligible A member ~~must be eligible to~~ receive a pension or disability benefit only as provided in this section.

~~(2) (a) Except as provided in subsection (2)(c), the full pension benefit paid to eligible members is \$150 a month.~~

~~(b) A partial pension benefit is calculated by multiplying the full pension benefit in subsection (2)(a) by a fraction, the numerator of which is the eligible member's years of service and the denominator of which is 20.~~

~~(c) The full pension benefit of a member who continued to be an active member after completing 20 years of service must be increased by \$7.50 a month for each additional year of active service the member completed after 20 years of service, up to 30 total years of service.~~

~~(3) (2) The disability benefit paid to an eligible member is calculated in the same manner as partial pension benefits described in subsection (2)(b) by multiplying the full pension benefit in subsection (2)(a) by a fraction, the numerator of which is the eligible member's years of service and the denominator of which is 20, except that the numerator may not be less than 10.~~

~~(4) If any fraudulent change or any inadvertent mistake in records results in any member, surviving spouse, or dependent child receiving more or less than entitled to, then on the discovery of the error, the board shall correct the error and adjust the payments to the member, surviving spouse, or dependent child in an equitable manner.~~

19-17-410 ~~603~~. Determination of disability. (1) The board shall determine whether a member has become disabled. In the discharge of its duty regarding determinations, the board, any member of the board, or any authorized representative of the board may order medical examinations, conduct contested case hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with a claim for disability benefits.

(2) The board shall retain medical personnel to advise it in initially determining the nature and extent of disabling conditions.

19-17-408 ~~604~~. Medical review of certain disability retirees. The board may require a member who receives a disability benefit to undergo periodic medical examinations. The examinations must be made by a board-approved physician or surgeon at a place mutually agreeable to the board, the physician or surgeon, and the member and at the board's expense. Upon the basis of these examinations and the advice of the board's consulting physician, the board shall determine, by reason of physical or mental capacity, whether the member remains permanently and totally disabled.

19-17-409 ~~605~~. Cancellation and reinstatement of disability benefits. (1) The board may cancel a member's disability benefit if:

(a) the board determines, as provided in 19-17-408, that the member is no longer disabled;

(b) the member refuses to submit to a medical examination under 19-17-408; or

(c) the member engages in a gainful occupation during the previous year and earns compensation exceeding \$5,500.

(2) The cancellation of a disability benefit under this section does not prejudice any right of a member to other pension benefits payable under the Volunteer Firefighters' Compensation Act.

(3) If the member's earnings in any year after the cancellation of disability benefits under subsection (1)(c) are less than \$5,500, the disability benefit must be reinstated.