



**Montana Legislative Services Division**  
**Office of Research and Policy Analysis**

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**RESEARCH MEMORANDUM**

TO: State Administration and Veterans' Affairs Interim Committee

FROM: Sheri Scurr, Legislative Research Analyst

DATE: August 12, 2016

RE: Fire Relief Associations - Local Disability and Pension Funds

This memorandum offers some basic background information for the State Administration and Veterans' Affairs Interim Committee concerning an issue referred by the Revenue and Transportation Interim Committee. The issue concerns a reference to "assessed value" of taxable property as it is used in certain statutes requiring sound funding of local fire relief association pension and disability funds.

Senate Bill 157 (2015) changed terminology related to how taxable value of property is determined. The ripple effect changed how much money is associated with the term "assessed value", which in turn affects two statutes that specify how much money must be kept as a balance in a local fire relief association's disability and pension fund.

A bill draft has been suggested that would strike the use of the term "assessed value" in the two affected statutes and insert new language about how to determine the minimum and maximum balance to be kept in a local fire relief association's disability and pension fund.

The bill draft presented to RTIC is supported by the Montana League of Cities and Towns. Staff has developed a discussion bill draft for SAVA based on the draft presented to RTIC. That bill draft is attached to this memorandum.

The remainder of this memorandum summarizes the statutes governing the local fire relief association disability and pension funds. The actual statutes referenced in this memorandum are attached.

## **Governance**

A city or town council of an incorporated city or town may establish a fire department relief association if the city or town has firefighting equipment in serviceable condition that is valued at \$750 or more.

A local board of trustees must be established to govern a fund to be known as a "disability and pension fund". The Public Employees' Retirement Board has no relationship with or oversight over these funds.

## **Funding**

Deposits to the fund include:

- contributions by paid or part-paid firefighters ;  
- 6% of regular monthly compensation;
- revenue from any special tax levy passed by voters (see 19-18-504);
- an annual state payment from the general fund that equals 1.5 mills of total taxable value of the city or town (see 19-8-512); and
- interest earned from investments. Investments may be managed by the association's board of trustees or, under certain parameters, by the state Board of Investments (see 19-18-402 and 403.)

A local disability and pension fund must be "soundly funded" (see sections 19-18-503 and 19-18-504). Under these statutes:

- the fund must have a cash balance of at least 0.21% but no more than 0.52% of the total "assessed value" of the taxable property of the city or town.
- the fund must be funded at a level determined by an actuarial valuation to be sufficient.
- if the balance of the fund falls to less than the maximum of 0.52% of the total "assessed value" of the taxable property (but the fund has more than the minimum of 0.21% of the total assessed value), then a special tax levy may be assessed if authorized by voters.
- if the balance of the fund falls to less than the minimum 0.21% of total assessed value of the taxable property, then the city or town may assess a tax levy without an election, subject to the cap provided in 15-10-420.

## **Benefits**

The eligibility and benefit formula for the service pension for paid or part-paid firefighters is:

- at least 20 years of service and age 50
- 50% of the member's last regular monthly salary

The partial service pension eligibility and benefit formula is:

- at least 10 years of active duty as a fully paid member
- benefits start on the date the person reaches age 50 and would have also reached 20 years of service if the member had not terminated service
- the benefit amount = years of service ÷ years the member would have had by age 50 and 20 years of service x 50% of the member's last monthly compensation

For volunteer firefighters, the board of trustees sets the benefit amount. However, the benefit "may not exceed \$225 a month, except that the pension may be set ... at an amount not to exceed \$300 a month if the association's fund is soundly funded as provided in 19-18-503" (see 19-18-602(3)(b)).

The fund also pays survivorship, death, and disability benefits (see 19-18-604 through 607).

## **Financial Reports**

- The local board of trustees must review the accounts of the association at least every 6 months and report to the next regular meeting of the association.
- An annual report of receipts and expenditures must be made to the association, the Department of Administration, and the State Auditor's Office.
- Audits are to be conducted as provided in 2-7-503, which outlines various criteria for local governments to follow.
- The Department of Administration may examine the financial books and accounts.

## Cities and Towns

The following table lists the 90 cities and towns with Fire Relief Associations and the city or town's FY 2015 revenues\* (i.e., income from the local tax levy, the annual state general fund payment from the State Auditor's Office, any employee contributions, any donations, and the fund's investment earnings):

<b>City/Town</b>	<b>FY2015 Revenue</b>
Baker Fire Dept Relief Assoc	\$ 3,310
Belgrade Fire Dept Relief Assoc	\$ 135,678
Belt Fire Dept Relief Assoc	\$ 0
Big Sandy Fire Dept Relief Assoc	\$ 760
Big Timber Fire Dept Relief Assoc	\$ 5,614
Boulder Fire Dept Relief Assoc	\$ 2,213
Bridger Fire Dept Relief Assoc	\$ 1,400
Broadus Fire Dept Relief Assoc	\$ 31,856
Browning Fire Dept Relief Assoc	
Cascade Fire Dept Relief Assoc	\$ 6,902
Chester Fire Dept Relief Assoc	\$ 1,575
Chinook Fire Dept Relief Assoc	\$ 2,450
Choteau Fire Dept Relief Assoc	\$ 17,098
Circle Fire Dept Relief Assoc	\$ 4,460
Colstrip Fire Dept Relief Assoc	\$ 96,556
Columbia Falls Fire Dept Relief Assoc	\$ 99,125
Columbus Fire Dept Relief Assoc	\$ 47,759
Conrad Fire Dept Relief Assoc	\$ 28,424
Culbertson Fire Dept Relief Assoc	\$ 3,098
Cut Bank Fire Dept Relief Assoc	\$ 10,804
Darby Fire Dept Relief Assoc	\$ 1,963
Deer Lodge Fire Dept Relief Assoc	\$ 11,563
Denton Fire Dept Relief Assoc	\$ 331
Dillon Fire Dept Relief Assoc	\$ 15,287
Dutton Fire Dept Relief Assoc	\$ 700
East Helena Fire Dept Relief Assoc	\$ 21,946
Ekalaka Fire Dept Relief Assoc	\$ 1,461
Eureka Fire Dept Relief Assoc	\$ 7,050
Fairfield Fire Dept Relief Assoc	\$ 7,246

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\* The cash balance in each fund is included in each financial report, but not extracted into the data base that populates this spreadsheet. To provide the cash balance in each fund would require manually going through each financial report submitted to extract the information.

<b>City/Town</b>	<b>FY2015 Revenue</b>
Fairview Fire Dept Relief Assoc	\$ 8,187
Forsyth Fire Dept Relief Assoc	\$ 4,058
Fort Benton Fire Dept Relief Assoc	\$ 18,903
Fromberg Fire Dept Relief Assoc	\$ 6,448
Geraldine Fire Dept Relief Assoc	\$ 424
Glasgow Fire Dept Relief Assoc	\$ 42,988
Grass Range Volunteer Fire Dept	\$ 314
Hamilton Fire Dept Relief Assoc	\$ 128,760
Hardin Fire Dept Relief Assoc	\$ 39,500
Harlem Fire Dept Relief Assoc	\$ 1,240
Harlowton Fire Dept Relief Assoc	\$ 5,151
Hobson Fire Dept Relief Assoc	\$ 1,546
Hot Springs Fire Dept Relief Assoc	\$ 1,295
Hysham Fire Dept Relief Assoc	\$ 313
Joliet Fire Dept Relief Assoc	\$ 832
Jordan Fire Dept Relief Assoc	\$ 1,492
Judith Gap Fire Dept Relief Assoc	\$ 207
Kevin Fire Dept Relief Assoc	\$ 561
Laurel Fire Dept Relief Assoc	\$ 88,438
Lavina Fire Dept Relief Assoc	\$ 226
Libby Fire Dept Relief Assoc	\$ 21,325
Malta Fire Dept Relief Assoc	\$ 27,877
Manhattan Fire Dept Relief Assoc	\$ 5,296
Medicine Lake Fire Dept Relief Assoc	\$ 292
Moore Fire Dept Relief Assoc	\$ 488
Nashua Fire Dept Relief Assoc	\$ 328
Philipsburg Fire Dept Relief Assoc	\$ 1,767
Plains Volunteer Fire Dept Relief	\$ 2,424
Plentywood Fire Dept Relief Assoc	\$ 25,697
Plevna Fire Dept Relief Assoc	\$ 1,215
Polson Fire Dept Relief Assoc	\$ 17,692
Poplar Fire Dept Relief Assoc	
Ronan Fire Dept Relief Assoc	\$ 22,747
Roundup Fire Dept Relief Assoc	\$ 110,362
Ryegate Fire Dept Relief Assoc	\$ 1,370
Saco Fire Dept Relief Assoc	\$ 0
Scobey Fire Dept Relief Assoc	\$ 6,661
Shelby Fire Dept Relief Assoc	\$ 19,172
Sheridan Fire Dept Relief Assoc	\$ 1,565
Sidney Fire Dept Relief Assoc	\$ 113,676
St. Ignatius Fire Dept Relief Assoc	\$ 12,898
Stanford Fire Dept Relief Assoc	\$ 1,577

<b>City/Town</b>	<b>FY2015 Revenue</b>
Stevensville Fire Dept Relief Assoc	\$ 16,904
Superior Fire Dept Relief Assoc	\$ 15,533
Terry Fire Dept Relief Assoc	\$ 736
Thompson Falls Fire Dept Relief	\$ 15,551
Three Forks Fire Dept Relief Assoc	\$ 42,292
Townsend Fire Dept Relief Assoc	\$ 12,529
Troy Volunteer Fire Dept Relief	\$ 1,633
Twin Bridges Fire Dept Relief Assoc	\$ 1,963
Valier Fire Dept Relief Assoc	\$ 2,673
Virginia City Fire Dept Relief Assoc	\$ 734
Walkerville Fire Dept Relief Assoc	\$ 13
Westby Fire Dept Relief Assoc	\$ 301
White Sulphur Springs Volunteer Fire	\$ 1,676
Whitefish Fire Dept Relief Assoc	\$ 141,478
Whitehall Fire Dept Relief Assoc	\$ 2,890
Wibaux Fire Dept Relief Assoc	\$ 49
Winifred Fire Dept Relief Assoc	\$ 273
Winnett Fire Dept Relief Assoc	\$ 388
Wolf Point Fire Dept Relief Assoc	\$ 27,904

An example of an annual financial report (using Belgrade's report) is attached. Each city or town's fire relief association's financial report is posted online by the Department of Administration at the following link/portal:

<http://sfsd.mt.gov/LGSB/localgovernmentreports>

### **Local Police Retirement Funds**

Title 19, chapter 19, provides for local police retirement funds, which would also be governed by a local board of trustees and not by the Public Employees' Retirement Board. The term "assessed value" does not appear in these statutes, so these statutes do not need to be amended because of SB 157.

Unlike what is provided for in the local fire relief association statutes, funding for the local police retirement funds must be based on an actuarial valuation. This valuation must be performed by the actuary of the Public Employees' Retirement Board, and the cost of the valuation (not to exceed \$6,000) must be paid by the state general fund. (See 19-19-204.)

According to financial reports submitted to the State Auditor's Office, three cities reported pension payments from their local police funds in FY 15: Shelby, Eureka, and Superior. However, according to the Montana Public Employees' Retirement Administration (MPERA), no city or town has asked for a valuation under 19-19-204 for several years.

## **Attachments**

- Belgrade Fire Relief Association's Annual Financial Report - FY 2015  
(example)
- Montana Code Annotated
  - Fire Relief Associations - Title 19, Chapter 18
  - Police Retirement Funds (Local) - Title 19, Chapter 19 - selected statutes
- Bill draft LCfire

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**STATE OF MONTANA  
DEPARTMENT OF ADMINISTRATION  
ANNUAL FINANCIAL REPORT  
FIRE DEPARTMENT RELIEF ASSOCIATION**

Fiscal Year Ended June 30, 2015

**ATTENTION:** This annual financial report form should be completed and a copy submitted to **both** the Montana Department of Administration Local Government Services Bureau and State Auditor within 6 months of your fiscal year end. Therefore, the report is due by December 31, 2015. **Please NOTE:** A monetary penalty may be assessed if the report is not submitted by due date.

The report should be mailed to both of the following addresses:

Montana Department of Administration  
Local Government Services Bureau  
Mitchell Bldg - Room 270  
PO Box 200547  
Helena, MT 59620-0547

State Auditor  
840 Helena Ave  
Helena, MT 59601

**Any questions contact Tod Kasten, Accountant**

406-974-3377 or Tkasten@mt.gov

**For Additional forms:** Please see our website at <http://sfsd.mt.gov/lgsb> Click on "Accounting and Financial Reporting Forms and Documents" then "Annual Financial Reports Fire Department Relief Associations" The web forms contain excel functions for easy calculations.

**In lieu of the report format on pages 2 & 3,** we encourage you to submit computer-generated reports or audit or compilation reports, as long as similar information is provided and the report is submitted by the due date noted above. However, please ensure that this Page 1 is signed and attached to the report - with the Contact Information and the Certification sections completed. Your annual financial report submission will not be complete without these sections completed.

**Please Note any address corrections below.** The mailing address should represent the official permanent mailing address of the District, not of an individual.

Entity #	41601
Entity Name	Belgrade Fire Department Relief Assn
Address	91 East Central Ave
City State Zip	Belgrade, MT 59714

Name Correction: \_\_\_\_\_

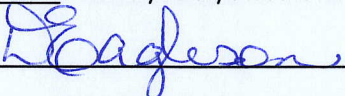
Address Correction: \_\_\_\_\_

**CONTACT INFORMATION FOR QUESTIONS:**

Name: Diane Eagleson E-mail: deagleson@cityofbelgrade.net

Title: Director of Finance and Administration Phone #: 406-388-3762

**CERTIFICATION:** I hereby certify that the information provided in this report is true and correct to the best of my knowledge.

Signature:  Date: 31-Dec-15

Title: Director of Finance and Administration

**FOR DEPARTMENT OF ADMINISTRATION USE ONLY**

Entered into Database		Date:
Reviewed by System's Staff		



**STATE OF MONTANA  
DEPARTMENT OF ADMINISTRATION  
LOCAL GOVERNMENT ANNUAL FINANCIAL REPORT  
FIRE DEPARTMENT RELIEF ASSOCIATION**

Fiscal Year Ended June 30, 2015

ACCOUNT NUMBER		
	<b><u>Cash Receipts (or Revenues)</u></b>	
(1)	310000 Taxes ( <i>Local Tax Levy</i> )	\$115,634.72
(2)	<b><u>Intergovernmental Revenue</u></b>	
	335050 Payment from State Auditor's Office	\$17,204.00
	330000 Other (describe) _____	_____
(3)	<b><u>Miscellaneous Revenues</u></b>	
(a)	366000 Employees' Contributions	_____
(b)	365000 Donations, Gifts and Bequests	_____
(c)	362000 Other (describe) _____	_____
(4)	371000 Investment and Royalty Earnings	\$2,839.44
	<b>Total Cash Receipts (or Revenues) for Fiscal Year</b>	
(5)	<i>(Total of Lines 1 through 4)</i>	<b>\$135,678.16</b>
(6)	<b><u>Cash Disbursements (or Expenditures)</u></b>	
	<u>Current</u>	
(a)	510600 140 Service Pensions	\$34,290.00
(b)	510600 140 Disability Pension	_____
(c)	130 Injury Allowance	_____
(d)	130 Sickness Allowance	_____
(e)	100 Funeral Expenses	_____
(f)	510600 140 Pension to Surviving Spouses & Children	\$1,350.00
(g)	510300 130 Return of Employee Contributions	_____
(h)	410530 350 Audit Fee	_____
(i)	510 Bond & Insurance Premiums	_____
(j)	510300 800 Other (describe) __Sec of State, Safety Deposit Box, Bank fees__	\$30.00
(7)	<b>Total Cash Disbursements (or Expenditures) for Fiscal Year</b>	
	<i>(Total of Lines 6.a. through 6.j.)</i>	<b>\$35,670.00</b>
(8)	Excess of Cash Receipts (or Revenues) Over (Under) Cash Disbursements(or Expenditures) <i>(Line 5 - Line 7)</i>	\$100,008.16
(9)	<b>Cash Balance (or Fund Balance) at July 1, 2014*</b>	<b>\$691,991.80</b>
	<i>(*as listed on prior year's Annual Financial Report)</i>	
(10)	<b>Restatements/Prior Period Adjustments (Explain below)</b>	
	<i>(if negative number - enter as a minus)</i>	
(11)	<b>Cash Balance (or Fund Balance) at June 30, 2015</b>	
	<i>(Line 8 + Line 9 ± Line 10)</i>	<b>\$791,999.96</b>

Restatements/Prior Period Adjustments - Explanation - \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**STATE OF MONTANA  
DEPARTMENT OF ADMINISTRATION  
LOCAL GOVERNMENT ANNUAL FINANCIAL REPORT  
FIRE DEPARTMENT RELIEF ASSOCIATION**

Fiscal Year Ended June 30, 2015

**Schedule of Assets and Liabilities**

**ASSETS**

(1)	101000	Cash and Investments Held in Custody of City/Town Treasurer	\$631,117.75
(2)	101000	Cash and Investments Held by or in the Name of the Fire Department Relief Association <i>(Not held by City/Town Treasurer)</i>	\$160,882.21
(2) (a)		<b>Total of Cash/ Investment reported (should equal amount listed on page 2 line 11)</b>	<b>\$ 791,999.96</b>
* (3)	110000	Taxes/Assessments Receivable	
* (4)	132000	Due from Other Governments	

**LIABILITIES**

(5)	201100	Warrants Payable <i>(If Fire Department Relief Association issues warrants drawn on the City/Town Treasurer)</i>	
* (6)	210000	Other Short-Term Payables	

**\* Note to Fire Department Relief Association**

Complete items marked with an asterisk (\*) only if the asset or liability is recorded in your financial records.

Date Fire Department Relief Association incorporated 1928\_\_\_\_\_

**TITLE 19**  
**CHAPTER 18**  
**FIREFIGHTERS' RETIREMENT**

**Part 1**  
**General Provisions**

**19-18-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Association" means the fire department relief association provided for in 19-18-102.

(2) "Disability and pension fund" or "fund" means the fund provided for in 19-18-105.

(3) "Fire department" includes all fire departments, consisting of paid, part-paid, or volunteer firefighters or any combination thereof, recognized by the city or town council of an incorporated city or town of this state.

(4) "Incorporated city or town" includes county seats whether incorporated or not.

(5) Any reference to "municipality", "city", or "town" includes those jurisdictions which, prior to the effective date of a county-municipal consolidation, were incorporated municipalities or subsequent districts created for urban fire protection services.

**19-18-102. Formation of fire department relief association -- membership.** (1) The confirmed members of a fire department, as defined in 19-18-101, may form a local association to be known as the fire department relief association of the city or town of .... (naming the city or town). When an association is formed, it shall be incorporated under the laws of this state. No one who is serving as a substitute, who is on probation, or who has not been confirmed as a member of the fire department is eligible for membership in the association.

(2) An association may only be formed and incorporated if:

(a) its formation is authorized by subsection (1); and

(b) the fire department has firefighting equipment in serviceable condition which has a value of \$750 or more.

**19-18-103. Officers of association.** When an association is formed, the members shall elect officers by a majority vote. The officers shall be a president, a secretary, a treasurer, and five members to serve on the board of trustees. After the incorporation of an association, the officers shall be elected annually on or before April 15. The members may elect the city or town treasurer ex officio treasurer of the association by a majority vote.

**19-18-104. Board of trustees of association.** A board of trustees of such fire department relief association shall be created to consist of seven members:

(1) the president of the fire department relief association and the chief of the fire department, if an active member of the association, shall be ex officio members; and

(2) five members to be elected by the members of such association at the annual election, to be held on or before April 15 of each year.

**19-18-105. Establishment of disability and pension fund.** A fund to be known as the "disability and pension fund" of the fire department relief association of the city or town shall be established and maintained in every city or town where the fire department has formed or hereafter forms an association under 19-18-102.

**19-18-106. Transfer of money into fund by city treasurer.** Whenever a fire department relief association has been formed and the treasurer of the association has furnished the bond required by 19-18-202, the city treasurer shall pay to the treasurer of the association all money held by the city treasurer to the credit of the disability and pension fund, taking a proper receipt for the payment. The city treasurer shall, as money is received for the credit of the fund or association, turn the money over to the treasurer of the association, taking proper receipts for the payments.

**19-18-107. Retention of firefighters' rights when local government consolidated.** A firefighter who has vested rights in a disability and pension fund maintains prior vested rights in the fund upon its transfer to a consolidated county municipality. A disability and pension fund established as required by law in a city or town of the county prior to the election and qualification of a commission under Title 7 or other acts of consolidation or disincorporation shall be continued as one such fund for the fire department of the municipality, subject, however, to the prior vested rights of firefighters employed by any fire department established as required by law in a city or town of the county prior to the election and qualification of a commission under Title 7 or other acts of consolidation or disincorporation. The board of trustees of the disability and pension fund shall continue as provided in 19-18-104. Except as provided in this section, the disability and pension fund shall be continued and administered in the manner prescribed by law for such funds.

## **Part 2**

### **Management and Protection of Fund**

**19-18-201. Management of fund.** Except as otherwise provided in this chapter, the association and its board of trustees have full charge, management, and control of the disability and pension fund. The fund shall be kept separate

from other funds and shall be held by the treasurer of the association.

**19-18-202. Treasurer's bond.** The treasurer of an association may not enter upon the duties of office until the treasurer has given the association a sufficient bond of not less than 50% of the amount of the cash funds and securities of the association for the faithful performance of the treasurer's duties according to law. The amount of the bond must be approved by the association and may not exceed \$25,000. The bond must be paid for by the association. If the city or town treasurer has been elected ex officio treasurer of the association, the official bond will cover the faithful discharge of duties as the treasurer of the association.

**19-18-203. Use of disability and pension fund.** The fund may not be used for any purpose other than investment, as provided in part 4 of this chapter, and the payment of the following:

- (1) a service pension to a member who, by reason of service, has become entitled to a service pension;
- (2) a pension to a member who has become permanently maimed or disabled;
- (3) a benefit or allowance to a member who has suffered a permanent disabling injury;
- (4) a benefit or allowance to a member who has contracted a permanent disabling sickness;
- (5) a benefit, not exceeding \$750, to defray the funeral expenses of a member;
- (6) benefits to the surviving spouse, child, or children of a deceased member as provided in this chapter;
- (7) premiums on a blanket policy of insurance covering the members of the fire department and providing for payment of compensation in case of the death of or injury to any such member;
- (8) the return of employee contributions as provided in this chapter.

**19-18-204. Review and report by board of trustees.** The board of trustees of the association shall review the accounts of the association at least every 6 months and shall report the condition of them at the next regular meeting of the association.

**19-18-205. Annual report of secretary and treasurer to association and state auditor.** The secretary and treasurer of the association shall annually prepare a report of its receipts and expenditures for the preceding year in accordance with 2-7-503, showing to whom and for what purposes money has been expended. The secretary and treasurer shall file the report with the association, the department of administration, and the state auditor. Money may not be paid to the treasurer of the association until the report is filed.

**2-7-503. Financial reports and audits of local government entities. (1)**

The governing body or managing or executive officer of a local government entity, other than a school district or associated cooperative, shall ensure that a financial report is made every year. A school district or associated cooperative shall comply with the provisions of 20-9-213. The financial report must cover the preceding fiscal year, be in a form prescribed by the department, and be completed and submitted to the department for review within 6 months of the end of the reporting period.

(2) The department shall prescribe a uniform reporting system for all local government entities subject to financial reporting requirements, other than school districts. The superintendent of public instruction shall prescribe the reporting requirements for school districts.

(3) (a) The governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in the period covered by the financial report in excess of \$500,000, regardless of the source of revenue or financial assistance, shall cause an audit to be made at least every 2 years. The audit must cover the entity's preceding 2 fiscal years. The audit must commence within 9 months from the close of the last fiscal year of the audit period. The audit must be completed and submitted to the department for review within 1 year from the close of the last fiscal year covered by the audit.

(b) The governing body or managing or executive officer of a local government entity that does not meet the criteria established in subsection (3)(a) shall at least once every 4 years, if directed by the department, or, in the case of a school district, if directed by the department at the request of the superintendent of public instruction, cause a financial review, as defined by department rule, to be conducted of the financial statements of the entity for the preceding fiscal year.

(4) An audit conducted in accordance with this part is in lieu of any financial or financial and compliance audit of an individual financial assistance program that a local government is required to conduct under any other state or federal law or regulation. If an audit conducted pursuant to this part provides a state agency with the information that it requires to carry out its responsibilities under state or federal law or regulation, the state agency shall rely upon and use that information to plan and conduct its own audits or reviews in order to avoid a duplication of effort.

(5) In addition to the audits required by this section, the department may at any time conduct or contract for a special audit or review of the affairs of any local government entity referred to in this part. The special audit or review must, to the extent practicable, build upon audits performed pursuant to this part.

(6) The fee for the special audit or review must be a charge based upon the costs incurred by the department in relation to the special audit or review. The audit fee must be paid by the local government entity to the state treasurer and must be deposited in the enterprise fund to the credit of the department.

(7) Failure to comply with the provisions of this section subjects the local government entity to the penalties provided in 2-7-517.

**2-7-517. Penalties -- rules to establish fine.** (1) When a local government entity has failed to file a report as required by 2-7-503(1) or to make the payment required by 2-7-514(2) within 60 days, the department may issue an order stopping payment of any state financial assistance to the local government entity or may charge a late payment penalty as adopted by rule. Upon receipt of the report or payment of the filing fee, all financial assistance that was withheld under this section must be released and paid to the local government entity.

(2) In addition to the penalty provided in subsection (1), if a local government entity has not filed the audits or reports pursuant to 2-7-503 within 180 days of the dates required by 2-7-503, the department shall notify the entity of the fine due to the department and shall provide public notice of the delinquent audits or reports.

(3) When a local government entity has failed to make payment as required by 2-7-516 within 60 days of receiving a bill for an audit, the department may issue an order stopping payment of any state financial aid to the local government entity. Upon payment for the audit, all financial aid that was withheld because of failure to make payment must be released and paid to the local government entity.

(4) The department may grant an extension to a local government entity for filing the audits and reports required under 2-7-503 or may waive the fines, fees, and other penalties imposed in this section if the local government entity shows good cause for the delinquency or demonstrates that the failure to comply with 2-7-503 was the result of circumstances beyond the entity's control.

(5) The department shall adopt rules establishing a fine, not to exceed \$100, based on the cost of providing public notice under subsection (2), for failure to file audits or reports required by 2-7-503 in the timeframes required under that section.

**19-18-206. Authority of department of administration -- mishandling of funds.** (1) All of the financial books and accounts of the association are subject at all times to examination by the department of administration.

(2) When a complaint is made to the department of administration that any money paid to the treasurer of the association has been or is being spent for an unauthorized purpose and, upon examination, the money is found to have been spent contrary to the authority given, the department shall report to the governor, upon whose directions to the state auditor warrants may not be issued to the association treasurer until the misspent money has been returned.

**19-18-207. Theft from funds.** Any person who fraudulently appropriates any money or other valuable thing belonging to the disability and pension fund of any fire department relief association or who takes part in or in any manner aids in any scheme or plan whereby the fund or association is defrauded out of any of the money in the fund is guilty of theft and upon conviction thereof shall be punished by imprisonment in the state prison for not less than 1 year or more than 10 years, by a fine of not more than \$50,000, or by both such fine and imprisonment.

**19-18-208. Protection of fund as to bank depository securities.** The cash in the disability and pension fund shall have the same protection as to depository securities furnished by banks as the other funds of the city or town.

#### **Part 4 Management of Association -- Investment of Fund**

**19-18-401. Management of association.** The management of the fire department relief associations and of fire department relief associations of pure volunteer fire departments in first- and second-class cities is vested in the boards of trustees, except as provided in 19-18-402 and 19-18-403.

**19-18-402. Investment of fund by trustees.** (1) Subject to the provisions of 19-18-403, when directed by a majority vote of the members of the association, the board of trustees may invest the surplus money in the fund or any part of the surplus money in:

- (a) time or saving deposits in a solvent bank, building and loan association, savings and loan association, or credit union operating in the county in which the city or town is located;
  - (b) bonds or other securities of the United States government; or
  - (c) general obligation bonds or warrants of any state, county, or city.
- (2) Unless otherwise required under 19-18-403, a change in investment type is subject to a majority vote of the board of trustees of the association.

**19-18-403. Investment of fund by board of investments.** (1) Whenever the average yield on investments of public retirement funds under the board of investments exceeds by 1% in any fiscal year the average yield on investments of the fund made pursuant to 19-18-402, the surplus money in the fund must be remitted to the state treasurer for investment under the direction of the board of investments as is provided in 17-6-204. The board of investments shall advise the association of the current yield on investments of public retirement funds.

(2) As used in subsection (1), "surplus money" means the excess over the greater of the following:

- (a) 1 1/2 times the monthly benefit paid in the preceding month; or
- (b) \$5,000.



## **Part 5**

### **Contributions to Fund**

**19-18-501. Contributions to fund.** The disability and pension fund consists of:

- (1) all bequests, fees, gifts, emoluments, donations, or money from other sources given or paid to the fund, except as otherwise designated by the donor;
- (2) a monthly contribution to the fund by each paid or part-paid member of the association amounting to 6% of the member's regular monthly salary;
- (3) the proceeds of the tax levy provided for in 19-18-504;
- (4) all money received from the state, including those payments provided for in 19-18-512; and
- (5) all interest and other income earned from the investment of the fund.

**19-18-502. Refund of firefighter's contribution.** A firefighter is entitled to a refund, in a lump sum and without interest, of all monthly contributions to the fund, within 60 days after permanent separation from service in the fire department, except for separation by reason of retirement, death, or disability that would otherwise qualify the firefighter or the firefighter's surviving spouse or children to receive benefits or an allowance from the association. A firefighter who is eligible to receive a partial service pension under 19-18-603 may either elect to take the refund provided for in this section or elect to receive the partial pension.

**19-18-503. Fund to be soundly funded.** (1) Each disability and pension fund must be soundly funded. The fund is soundly funded if, subject to subsection (2):

- (a) assets in the fund are maintained at a level equal to at least 0.21% but no more than 0.52% of the total **assessed value** of taxable property, determined as provided in 15-8-111, within the limits of the city or town; or
- (b) funding is maintained at a level determined by an actuarial valuation to be sufficient to keep the fund actuarially sound.

(2) An actuarial valuation may be requested only by a city, town, or association. Once an actuarial valuation has been conducted, funding must continue to be based on actuarial determinations rather than on the total assessed value of taxable property pursuant to subsection (1)(a).

**19-18-504. Special tax levy for fund required.** (1) Whenever the fund contains an amount that is less than the minimum amount required to keep the fund soundly funded pursuant to 19-18-503, the city or town council shall, subject to 15-10-420, levy an annual tax on the taxable value of all taxable property within the city or town.

(2) When the fund contains an amount that is less than 0.52% but more than 0.21% of the total **assessed value** of all taxable property within the city or town, the city or town council may, if authorized by the voters as provided in 15-10-425, levy an annual tax.

(3) All revenue from the tax must be deposited in the fund.

**19-18-511. Annual report of clerks of cities having fire departments.** On or before April 1 annually, the clerk of every city having an organized fire department or a partly paid or volunteer department shall file with the commissioner of insurance of this state a certificate stating that fact. The certificate must include the system of water supply in use in the fire department, the number of its organized companies, steam, hand, or other engines, hook-and-ladder trucks, hose-carts, and feet of hose in actual use, and other facts that the commissioner may require.

**19-18-512. State auditor -- payment to association.** (1) After the end of the fiscal year, the state auditor shall issue and deliver the warrant described in this subsection to the treasurer of each city or town that has a fire department relief association entitled by law to receive payments. The warrant must be for the use and benefit of the association. The warrant must be for an amount equal to 1 1/2 mills of the total taxable value of the city or town and must be paid out of the general fund. The payment is statutorily appropriated as provided in 17-7-502.

**19-18-514. State treasurer to pay warrants.** The state treasurer shall, upon the presentation of a warrant drawn pursuant to this chapter, pay to the treasurer of the city or town, out of money in the state special revenue fund dedicated for that purpose, the amount of the warrant, which amount must be paid by the city treasurer to the fire department relief association.

## **Part 6 - Benefits**

**19-18-601. Benefits the association may provide.** Every fire department relief association may allow to its members benefits for the following causes, as provided by law:

(1) a service pension to a member who, by reason of service, has become entitled to a service pension;

(2) to a member who has become maimed or disabled for life in line of duty;

- (3) to a member who has suffered injury in line of duty;
- (4) to a member who has contracted sickness in line of duty;
- (5) funeral expenses of a member;
- (6) pensions to the surviving spouse, orphan, or orphans of a deceased member.

**19-18-602. Service pension.** (1) Each association shall pay, out of its disability and pension fund, a service pension to a member who elects to retire from active service after having completed 20 years or more of active duty and who has reached 50 years of age as a fully paid member of a paid or partly paid and partly volunteer fire department of the city or town in which the association was formed. The pension must be equal to one-half of the sum last received by the member as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, for the member's services as an active member of the fire department.

(2) Effective July 1, 1974, a member who completes 20 years of service and elects to serve additional years must receive the pension provided for in subsection (1) increased at the rate of 1% a year for each additional year of service completed, up to a maximum of 60% of the sum last received by the member as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, for services as an active member of the fire department. A member is not eligible to receive a service pension prior to attaining 50 years of age.

(3) (a) The monthly pension paid to members retiring on or after July 1, 1973, must be at least one-half the regular monthly salary, excluding overtime and payments in lieu of sick leave and annual leave, paid to a confirmed active firefighter of that city, as provided each year in the budget of that city. The monthly pension paid to a member retiring prior to July 1, 1974, must be at least \$200.

(b) In the case of volunteer firefighters, the pension may be set by the board of trustees of the association, but may not exceed \$225 a month, except that the pension may be set by the board of trustees of an association and a city at an amount not to exceed \$300 a month if the association's fund is soundly funded as provided in 19-18-503.

(4) As of July 1, 1977, a member is not eligible to receive a service pension under this section unless the member is making a monthly contribution to the disability and pension fund, as required by 19-18-501, and is on active duty as a fully paid member of a fire department when the member reaches 50 years of age.

(5) A member of a pure volunteer fire department who has served 20 years or more as an active member of the fire department is entitled to the benefits provided for in this chapter regardless of age. A member of a pure volunteer fire department who has completed 10 years of service as an active member of the fire department but who is prevented from completing 20 years

of service by dissolution or discontinuance of the member's volunteer fire department, personal relocation because of transfer or loss of employment, personal disability, or any other factor beyond the member's reasonable control may qualify for a partial or reduced pension in an amount and to the extent determined by the board of trustees of the association, regardless of age.

**19-18-603. Partial service pension.** (1) A member of a fire department relief association is eligible to receive a partial service pension if the member:

(a) has completed at least 10 years of active duty as a fully paid member of a fire department but has not both completed 20 years of service and reached 50 years of age as an active firefighter;

(b) is permanently separated from service;

(c) does not qualify for a disability pension under 19-18-604; and

(d) does not receive a refund of the member's contributions under 19-18-502.

(2) The right to receive the pension vests upon the firefighter's permanent separation from service, but the payments may not commence until the date the firefighter would have both reached 50 years of age and completed 20 years of service as a member of a fire department had the member's active duty not been terminated.

(3) The pension must be paid out of the disability and pension fund and must consist of monthly payments in an amount equal to the number of years of the firefighter's service divided by the number of years of service the firefighter would have had if the firefighter had remained in active duty as a member of a fire department until the date the firefighter would have both reached 50 years of age and completed 20 years of service, multiplied by one-half of the sum last received by the firefighter as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, for services as an active member of the fire department.

(4) If the firefighter dies after the firefighter is permanently separated from service and before the firefighter both reaches 50 years of age and would have completed 20 years of service as an active member of a fire department, the payments prescribed in subsection (3) must be made to the surviving spouse commencing on the date the firefighter would have both reached 50 years of age and completed 20 years of service as an active member of a fire department and terminating upon the surviving spouse's death or remarriage. If there is no surviving spouse or the surviving spouse dies or remarries and if the firefighter leaves one or more children who have not reached 18 years of age, the children must receive the payments until the youngest reaches 18 years of age.

(5) If the firefighter dies after both reaching 50 years of age and the date the firefighter would have completed 20 years of service as an active member of a fire department, the payments must be made to the surviving spouse or children as provided in subsection (4).

(6) The pension escalation provisions of 19-18-602 do not apply to pensions received under this section.

**19-18-604. Disability pension.** (1) Each association shall pay a disability pension, out of its disability and pension fund, to each of its members who has become disabled by reason of sickness or injury. The pension must be equal to one-half of the sum last received by the member as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, for the member's services to the fire department of the city or town in which the association was formed.

(2) A member who completes 20 years of service and elects to serve additional years must receive the pension provided for in subsection (1) increased at the rate of 1% per year for each additional year of service completed, up to a maximum of 60% of the sum last received by the member as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, for services as an active member of the fire department.

(3) The monthly pension paid to members must be at least one-half the regular monthly salary paid to a confirmed active firefighter of that city, as provided each year in the budget of that city. The monthly pension paid to a member retiring prior to July 1, 1974, must be at least \$200. In the case of volunteer firefighters, the disability pension may not exceed \$125 a month.

**19-18-605. Pensions to surviving spouses and children.** (1) Each association shall pay, out of its disability and pension fund, a monthly pension to the surviving spouse or children of a deceased member of the association who on the date of death was an active member of the fire department in the city or town in which the association was formed, who had elected to retire from active service in the fire department and receive a service pension as provided for by 19-18-602, or who, prior to death, had suffered a sickness or injury and was receiving or was qualified to receive a disability pension as provided by 19-18-604. The pension must be equal to one-half of the last month's salary received as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, by the deceased member for services rendered as an active member of the fire department in the city or town in which the association was formed.

(2) If the deceased member completed 20 years of service and elected to serve additional years, the pension provided for in subsection (1) must be increased at the rate of 1% per year for each additional year of service completed, up to a maximum of 60% of the last month's salary received as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, by the deceased member for services as an active member of the fire department.

(3) The monthly pension paid to the surviving spouse or children of an active member or an active member who elects to retire must be at least

one-half the regular monthly salary paid to a confirmed active firefighter of that city, as provided each year in the budget of that city. The monthly pension paid to the surviving spouse or children of an active member who died prior to July 1, 1974, or who elected to retire before July 1, 1974, must be at least \$200. In the case of a volunteer firefighter, the pension paid to a surviving spouse or children may not exceed the amount provided for a service pension for a volunteer firefighter under 19-18-602(3).

(4) A pension may be paid to the surviving spouse only as long as the spouse remains unmarried. A surviving spouse is not entitled to a pension under this section if the marriage was entered into after the firefighter elected to retire from active service and began to receive a service pension as provided for by 19-18-602 or if the marriage was entered into after the firefighter qualified for and had begun to receive a disability pension as provided for by 19-18-604. The pension provided for in this section may not be paid to the children of deceased firefighters after they have attained 18 years of age.

**19-18-607. Payment of death benefits in absence of spouse or child.** If a firefighter dies without leaving a surviving spouse or child, the association shall compute the total contributions made to the fund by the deceased member, and if the deceased member designated a beneficiary in writing to the association, the association shall issue a warrant for the amount of the total contributions payable to that beneficiary. If the deceased member did not nominate a beneficiary, the contributions must be paid to the member's estate.

**19-18-611. Procedure -- applying for and collecting benefits.** (1) All applications for relief shall be referred to the board of trustees. All claims shall be referred to the board of trustees for allowance or disallowance, and claimant shall have the right to appeal to the association in the event the claim be disallowed.

(2) All claims shall be paid by warrant, duly authorized, drawn by the secretary and countersigned by the president of the association. On presentation of the warrant, the treasurer shall pay it out of the disability and pension fund.

**19-18-612. Protection of benefits from legal process and taxation -- nonassignability.** (1) Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, payments made or to be made under this chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled to a pension may not assign the right, and the association and trustees may not recognize any assignment or pay over any sum assigned.

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

**TITLE 19**  
**CHAPTER 19**  
**POLICE RETIREMENT -- LOCAL FUNDS**

**(Extract - Certain Statutes - Not Complete Chapter)**

**19-19-204. Trustees' report to state auditor.** The board of trustees of each police retirement fund shall on or before April 1 of each year report to the state auditor as to the financial condition of its fund.

**19-19-205. Actuarial valuation of police retirement fund.** (1) The city treasurer shall submit to the public employees' retirement board before September 1 of each odd-numbered year all information requested by the public employees' retirement board necessary to complete an actuarial valuation of the city's police retirement fund. The valuation must consider the actuarial soundness of the police retirement fund for the 2 preceding fiscal years.

(2) The valuation must be prepared by a qualified actuary selected by the public employees' retirement board. A qualified actuary is a member of the American academy of actuaries or of any organization considered by the department to have similar standards.

(3) In each fiscal year in which an actuarial valuation is prepared, the public employees' retirement board shall submit to the state treasurer a request for payment of the expense incurred in securing the actuarial valuation. The expense may not exceed \$6,000 in any fiscal year. The state treasurer shall make payment to the actuary from the general fund.

**19-19-305. Annual state payments to municipality with police department.** (1) After the end of each fiscal year, the state auditor shall issue and deliver to the treasurer of each city and town in Montana that has a police department and that is not a participant in the municipal police officers' retirement system a warrant for an amount computed in the same manner as the amount paid (or that would be paid if an existing relief association met the legal requirements for payment) to cities and towns for fire department relief associations pursuant to 19-18-512. The payment from the general fund is statutorily appropriated as provided in 17-7-502.

(2) Each city or town that has a police retirement fund shall deposit the payment to the credit of its police retirement fund.

(3) Payments provided for in 19-19-205 and subsection (1) of this section are in addition to those provided for in 19-19-301.

**Unofficial Draft Copy**

As of: August 9, 2016 (9:35am)

LCfire

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act revising the basis for determining whether the disability and pension fund of a city's or town's fire relief association is soundly funded; amending sections 19-18-503 and 19-18-504, MCA; and providing an immediate effective date."

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

**Section 1.** Section 19-18-503, MCA, is amended to read:

**"19-18-503. Fund to be soundly funded.** (1) Each disability and pension fund must be soundly funded. The fund is soundly funded if, subject to subsection (2):

(a) assets in the fund are maintained at a level equal to at least ~~0.21% but no more than 0.52%~~ of the total assessed value of taxable property, determined as provided in ~~15-8-111~~, within the limits of the city or town three times but no more than five times the benefits paid by the fund in the previous fiscal year;  
or

(b) funding is maintained at a level determined by an actuarial valuation to be sufficient to keep the fund actuarially sound.

(2) An actuarial valuation may be requested only by a city, town, or association. ~~Once an actuarial valuation has been~~



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~~conducted, funding must continue to be based on actuarial determinations rather than on the total assessed value of taxable property pursuant to subsection (1) (a)."~~

{ *Internal References to 19-18-503:*  
a19-18-504 x19-18-602 }

**Section 2.** Section 19-18-504, MCA, is amended to read:

**"19-18-504. Special tax levy for fund required. (1)**

~~Whenever~~ If the fund contains an amount that is less than the minimum amount required to keep the fund soundly funded pursuant to 19-18-503, the city or town council shall, subject to 15-10-420, levy an annual tax on the taxable value of all taxable property within the city or town.

(2) ~~When~~ If the fund contains an amount that is less than ~~0.52% but more than 0.21% of the total assessed value of all taxable property within the city or town~~ the maximum but more than the minimum required to keep the fund soundly funded pursuant to 19-15-503(1) (a), the city or town council may, if authorized by the voters as provided in 15-10-425, levy an annual tax.

(3) All revenue from the tax must be deposited in the fund."

{ *Internal References to 19-18-504:*  
x19-18-501 }

NEW SECTION. **Section 3. {standard} Effective date.** [This act] is effective on passage and approval.

- END -

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As of: August 9, 2016 (9:35am)

LCfire

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