

Title 9 : Cities and Towns; Chapter 8 : Police and Fire Departments

Article 3 : Firefighters' Relief and Pension Fund

Article 4 : Alternative Pension & Benefit Plan

Title 38 : Public Officers & Employees

Title 48 : Special Taxing Districts

Title 9, Chapter 8, Article 3 (Firefighters' Relief and Pension Fund)

Section 9-951. Disposition of fire insurance premium tax proceeds; composition of fund

Subsection A. The proceeds of the annual tax provided by law on the gross amount of all premiums received on policies and contracts of fire insurance covering property within this state, after deducting cancellations, return premiums, dividends and the amount received as reinsurance on business in this state, are appropriated and set aside for distribution to (not included) and for the payment of benefits pursuant to Title 9, Chapter 8, Articles 3 and 4 OR Title 38, Chapter 5, Article 4 (see top of page).

B. Not later than April 30, the state fire marshal shall certify to the state treasurer the areas served by legally organized fire districts, the department of insurance shall certify to the state treasurer the respective amounts of tax on fire premiums paid in the previous year for properties located in this state, and the department of revenue shall certify to the state treasurer the full cash value of the real property and improvements for the previous year in each area served by a department or a legally organized fire district. The total amount of the tax proceeds shall then be prorated among the legally organized fire districts in proportion to the full cash value of the real property and improvements in area served by a department or a legally organized fire district to the total full cash value of all legally organized fire districts in this state.

C. Each legally organized volunteer fire district shall deduct five per cent from the salaries or compensation of its fire fighters AND add a like amount from its general revenues. The employer or the employee MAY add a contribution greater than that specified in this Section (i.e., Title 9, Chapter 8, Article 3, Section 9-951; see top of page) to the fire fighters' relief and pension fund. The total of the two amounts shall be PAID EACH MONTH into the fire fighters' relief and pension fund. The treasurer (*Yavapai County Treasurer*) of each (*Pension & Relief Fund*) board shall keep a record of the salary deductions. If a fire fighter dies under circumstances NOT entitling his dependents to a benefit from the fire fighters' relief and pension fund, OR if he becomes separated from the service VOLUNTARILY or INVOLUNTARILY without having become eligible for retirement benefits thereunder, all deductions previously made from his salary under this Article (Article 3) shall become payable, plus interest as determined by the (*Pension & Relief Fund*) board, to his beneficiary in the event of his death, OR otherwise to the fire fighter.

D. Payroll deductions made under the provisions of Subsection C of this Section (i.e., Title 9, Chapter 8, Article 3, Section 9-951; see top of page), PLUS any additional sums the (*Pension & Relief Fund*) board of trustees may add, shall be set aside in a PERMANENT RESERVE fund, the INCOME of which, BUT NO PART OF THE PRINCIPAL, shall be used to pay retirement benefits OR relief, BUT, in order to pay the REFUNDS provided for in Subsection C of this Section (i.e., Title 9, Chapter 8, Article 3, Section 9-951; see top of page) that portion of the PRINCIPAL which accrues FROM SALARY DEDUCTIONS MAY be drawn upon when necessary.

E. (not applicable) For purposes of this Section (9-951) and Section 9-952, full cash value of real property and improvements for the previous year with respect to each incorporated city and town which procures the services of a private fire company shall be limited to thirty per cent of the amount certified by the department of revenue and the percentage shall be utilized in computing the entitlement of an incorporated city or town which procures the services of a private fire company.

Section 9-951.01. Definition

As used in **this Article (Article 3)**, "volunteer fire company" includes "volunteer fire district".

Section 9-952. Disposition of fire insurance premium tax

Not later than July 1, the state treasurer, using the information provided by the legally organized fire districts, the state fire marshal, the department of insurance and the department of revenue as provided in **Section 9-951, Subsection B**, shall **distribute the fire insurance premium tax** to the legally organized fire districts in proportion to the full cash value of the real property and improvements in each area served by a department or legally organized fire district. The **warrant** issued by the **state treasurer** to legally organized fire districts having organized fire departments and to legally organized fire districts shall be identified as "**fire fighters' relief and pension fund**". (*remainder not applicable*).

Section 9-953. Fire districts or departments; certification by state fire marshal

The state fire marshal shall certify the existence of fire districts organized under **Title 48** The state fire marshal shall provide this information annually to the **state treasurer** pursuant to **Section 9-951, Subsection B**.

Section 9-954. Board of trustees of fund; membership

A. if administered by a **district board**, a (Fire District) **board member (#1)** and the **fire chief (#2)**, **four members (#3 - #6)** elected from the **fire department OR** from the **fire district and one lay member (#7)** appointed by the (Fire) District **constitute** the (*Pension & Relief Fund*) **board** of trustees of the fire fighters' relief and pension fund for that fire district. The (*Pension & Relief Fund*) **board** of trustees shall **provide for the disbursement** of the fund **and designate** the **beneficiaries** of the fund **as directed in this Article (Article 3)**.

B. The fire department of each fire district shall elect by ballot from its membership four members of the (*Pension & Relief Fund*) board of trustees, or number of members as, when added to the incumbent members thereof, will constitute four members in addition to the chief. If two members in addition to the chief are already on the board of trustees, two additional members shall be elected to hold office for the same respective terms as the two incumbent members. At the expiration of the two shorter terms, and thereafter biennially, two members shall be elected for terms of four years each.

C. For a fire district, the **fire chief**, with (**fire**) **district board consent**, shall **appoint lay members** to fill the **elected positions** on the (*Pension & Relief Fund*) board when **active volunteers are no longer available**.

Section 9-955. Officers of board; meetings; procedure for disbursements

A. The (*Pension & Relief Fund*) board of trustees shall elect from its members the **president** and **secretary** of the board for the ensuing year. The **county treasurer**, as the case may be, shall be **treasurer**, except that if the board of trustees of a fire district assumes the responsibility for investing and reinvesting the funds pursuant to Section 9-957, Subsection B, the (*Pension & Relief Fund*) board of trustees may elect from its members a treasurer who is responsible for the custody of the cash and securities of the fund and for executing the decisions of the (*Pension & Relief Fund*) board of trustees with respect to investments, reinvestments, receipts and disbursements.

B. The (*Pension & Relief Fund*) board **shall meet annually** and at such **other times** as the **president** may direct.

C. The (*Pension & Relief Fund*) board shall issue orders signed by the **president** and the **secretary** to the **beneficiaries** of the **amounts** ordered paid to such beneficiaries from the fund **stating the conditions** of the **payment**. (*not applicable*). The (*Pension & Relief Fund*) board shall **keep a public record** of its **proceedings**. At each regular meeting it shall **transmit** to the **county treasurer**, as the case may be, a **written list** of **all persons entitled to benefits** from the fund, **stating the reason and amount of the benefits**. The list shall be **certified** and **signed** by the **president** and **secretary** and **attested under oath** (*notarized?*). The **county treasurer**, shall thereupon enter a copy of the list upon a book kept for that purpose. The (*Pension & Relief Fund*) **fund shall not be disbursed without a majority vote** of the **members** of the (*Pension & Relief Fund*) **board**, the **vote** to be **entered upon the minutes**.

D. Notwithstanding the provisions of Subsections A and C of **this Section**, if the (*Fire District*) **board** of trustees of a fire district assumes the **responsibility** for **investing** and **reinvesting** the **funds** pursuant to **Section 9-957, Subsection B**, the duties of the **treasurer** may be performed by a member of the (*Fire District*) board elected by the (*Fire District*) board. If the duties of the treasurer are performed by a member of the (*Fire District*) board he shall be bonded for an amount determined by the (*Fire District*) board which amount shall not be less than the maximum amount of funds in the account at any one time during the previous year.

Section 9-956. Annual audit; report of secretary; sanction

A. The (*Pension & Relief Fund*) board shall cause an **annual audit** and **report of the fund**. (*Per Steve Alley of the State Fire Marshal's Office, on or about 2/Jan/02, the Annual Review for the Fire Department, which includes a 'review' of the Pension & Relief Fund, is acceptable in lieu of the 'audit' cited above.*)

B. The (*Pension & Relief Fund*) **secretary** shall report, using a form approved by the state fire marshal, annually on or before January 1 to the (*Pension & Relief Fund*) board the condition of the fund and the receipts and disbursements, with a **complete list** of its **beneficiaries** and the **amounts paid**.

C. The (*Pension & Relief Fund*) board shall send a copy of the annual audit and report of the fund to the **state fire marshal** and (?) the Arizona state library, archives and public records. (*1/Oct/01 instructions from the State Fire Marshal only require that a copy of the report be sent to the Office of the State Fire Marshal.*)

D. If the **annual pension fund report** is **not received** by January 31 by the state fire marshal the participating fire district is **not eligible** to receive its share of fire insurance premium tax monies under **Section 9-952**. (*Note that it does not say the 'annual audit' must also be received by 31/Jan.*)

Section 9-957. Powers and duties of board; investments; review of decisions

A. The (*Pension & Relief Fund*) board may compel witnesses to attend and testify upon any matter pertaining to this **Article (Article 3)**, and its president or any member may administer oaths. The board may provide for payment of its necessary expenses, except that no compensation is payable to members of the board for duties performed under this **Article (Article 3)**.

B. Funds which are not immediately required for the payment of pensions or benefits under this **Article (Article 3)** may be invested or reinvested, at the discretion of the (*Pension & Relief Fund*) board of trustees, by the (*Yavapai*) **county treasurer** or by the (*Pension & Relief Fund*) board of trustees, as follows:

1. In bonds of the United States.
2. In federal housing insured mortgage bonds of the United States.
3. In federal land bank bonds.
4. Any bonds upon which the payment of interest and principal are guaranteed by the United States.
5. Bonds issued by any United States government instrumentality or federal agency that qualify and are acceptable as security for public funds of the United States government.
6. General obligation bonds of this state or of the counties, incorporated cities and towns and school districts of this state.
7. Revenue bonds of the incorporated cities and towns of this state, Arizona board of regents, Arizona power authority, or any other legally constituted state authority or agency authorized by law to issue revenue bonds, except revenue bonds for recreational purposes issued by cities and towns.
8. Bonds of agricultural improvement districts and agricultural improvement and power districts organized under the laws of this state when issued or guaranteed, with the approval of the secretary of the interior, by corporations operating a United States reclamation project within the state.
9. Bonds of incorporated cities or towns of this state issued under the provisions of Sections 9-692 through 9-707.
10. First lien bonds of sanitary districts issued pursuant to **Title 48, Chapter 14**.
11. Registered warrants of the state, or registered county or school district warrants when offered as security for monies of the county or school district by which they are issued.
12. Interest bearing savings accounts or certificates of deposit in banks doing business in this state whose accounts are insured by the federal deposit insurance corporation, but only if such deposits in excess of the insured amount are secured by the depository to the same extent and in the same manner as required by the general depository law of the state.
13. Interest bearing savings accounts or certificates of deposit in savings and loan associations doing business in this state, whose accounts are insured by the federal savings and loan insurance corporation, but only if such deposits in excess of the insured amount are secured by the depository to the same extent and in the same manner as required by the general depository law of this state.

C. All matters pertaining to the benefits granted by this Article to fire fighters and their dependents shall be presented to the (*Pension & Relief Fund*) board, and any person aggrieved by a decision of the (*Pension & Relief Fund*) board may at any time within thirty days after its decision petition for a writ of certiorari, and the court may on final hearing reverse or affirm, wholly or partly, or may modify, the decision reviewed.

Section 9-963. Grant of temporary relief by board; procedures for immediate pension relief

A. The (*Pension & Relief Fund*) board of trustees **may grant temporary relief and assistance** from the fund to any qualified member of a legally organized volunteer fire district or department, or to such member's surviving spouse or surviving dependents.

B. The president, secretary and (*Pension & Relief Fund*) board shall provide procedures to **expedite regular pension payments for immediate distribution** to a qualified surviving spouse or dependents of a member who dies as a result of or in the performance of his duties as a fire fighter.

Section 9-965. Termination of benefits

If a **beneficiary** is declared to be an **incapacitated person**, pursuant to **Section 14-5101**, or **disobeys** any requirement of this Article, the (*Pension & Relief Fund*) board may order his pension or allowance discontinued. Thereafter his benefit is payable to his immediate dependents or to his guardian.

Section 9-967. Pension for volunteer fire fighter

A. A person duly appointed and having served either as a member of a legally organized fire district for **twenty-five years or more**, **OR** who has reached **sixty years of age**, **AND** served **twenty years or more**, shall be paid a monthly pension **not to exceed two hundred dollars per month** based on the **benefits available** to members of that fire department or district as determined by the (*Pension & Relief Fund*) **board** of trustees. The pension shall be paid from the fire fighters' relief and pension fund of his fire district or fire department. Such pension if paid may be **increased** or **decreased** in amount, or **discontinued** at the **discretion** of the (*Pension & Relief Fund*) **board** of trustees.

B. If the funds provided in the volunteer fire fighters' relief and pension fund are **insufficient** to pay fully the pensions authorized pursuant to this Section, the **fund shall be prorated** among those entitled thereto.

Section 9-967.01. Paid fire fighters who are also volunteers; eligibility for pension benefits

Any person who is a paid member of a fire department **AND** an active member of the public safety personnel retirement system is **NOT** eligible to receive pension benefits under this Article **from that same department**.

Section 9-968. Exemption of pension from process; prohibition of assignments; exception

A. **No portion** of the pension fund or the distributive portions thereof **shall be subject to attachment, execution or other judicial process** for the **satisfaction of a debt or claim against the member or his beneficiaries, and assignments or transfers of any distributive portion shall be void**.

B. Nothing in this Section exempts property from **court orders** which are the result of a judgment for arrearages of **child support** or for a **child support debt**.

Section 9-969. Applicability of workers' compensation law

This Article (Article 3) shall be **supplemental AND in addition to** the workers' compensation law, but firemen and their beneficiaries receiving compensation under those provisions of law shall **NOT** receive the benefits provided by this Article (Article 3) during the period they receive such compensation, **EXCEPT** in the event such compensation is less than the benefits provided by this Article (Article 3), then the relief and pension fund shall pay the deficiency as determined by the (*Pension & Relief Fund*) board of trustees.

Section 9-970. Effect of military service

A member of a fire department or district who has served as a member of the military establishment of the United States during a period of national emergency, immediately following service as a member of the fire department or district, shall not be required to contribute to the fire fighters' relief and pension fund by salary deduction or otherwise for the period during which the member was in military service. The period of military service shall be included in computing the length of service of the firemen in determining eligibility for retirement.

Section 9-971. Reinstatement after military service

A member of a fire district inducted into the military establishment of the United States for military training shall, upon his discharge from such service, be reinstated with his previous service credits.

Section 9-972. Inapplicability of Article (Article 3)

A. (*not currently applicable*) Effective from and after June 30, 1968, this Article (Article 3) shall be amended as to all FULL TIME PAID FIREMEN, **AND EMPLOYEES OTHER THAN VOLUNTEER FIREMEN** employed after June 30, 1968, shall be covered by the provisions of the public safety personnel retirement system in those cities which have established a pension system under the provisions of this Article prior to the effective date of this Section, subject to the right of election provided for in Section 38-854. However, those employers presently participating under the Sections 9-912 to 9-971 shall **NOT** come under the provisions of the social security act as to their employees.

B. Notwithstanding any provision of law to the contrary, effective from and after June 30, 1968, this Article (Article 3) shall apply only to volunteer firemen and all amounts accumulated under this Article for full time paid firemen, as determined by actuarial procedures prescribed by the fund manager of public safety personnel retirement system, shall be transferred to the fund maintained under the public safety personnel retirement system, and accounted for by each employer. Each full time paid fireman employed after June 30, 1968, shall be covered by the provisions of the public safety personnel retirement system which continues and amends this fund in regard to full time paid employees.

Section 9-973. Disability insurance for volunteer fire fighters

In addition to the authority granted pursuant to other provisions of this Article, the (*Pension & Relief Fund*) board of trustees with the approval of the board of supervisors if for a volunteer fire district, may purchase disability insurance for the volunteer firemen with funds from the volunteer fire fighters' relief and pension fund.

Section 9-981. Authority to purchase alternative pension and benefit plan

A. In lieu of pension and relief benefits provided for under the provisions of **Article 3** of **this Chapter** (i.e., **Title 9, Chapter 8** see top of first page) a fire district may provide for an **alternative pension and benefit program** for fire fighters **NOT** covered under the provisions of **Article 3** of **this Chapter** **OR** under the public safety personnel retirement system.

B. The **fire insurance premium tax** received by the district under **Section 9-952**, contributions from the district, and deductions from the salaries or compensation of firemen **may be used to purchase a private pension or benefit program** for firemen. Firemen **not** covered under the public safety personnel retirement system may elect to be covered under the provisions of the alternative pension and benefit program upon filing a request in writing with the district.

C. The terms, conditions, benefits, eligibility requirements and contribution rates of the alternative pension and benefit program shall be established by:

1. For a city or town, by the adoption of a resolution of the city or town council.
2. For a **fire district with a board**, by the **adoption** of a **resolution** of the **board**.
3. For a fire district without a board, by the adoption of a resolution of the board of trustees of the firemen's relief and pension fund and the approval of the board of supervisors.

D. **Notwithstanding any other provision of law, pension and benefit programs authorized under this Article (Article 3) shall NOT** be construed to be a **contract** between the employee and employer **AND are** subject to **annual appropriations** of the district.

Section 9-991. Training requirement

(not applicable) A **professional** fire fighter as defined in **Section 9-901** shall complete training certified by the director of the department of health services on the nature of sudden infant death syndrome as part of the basic training to become a fire fighter.

Section 9-901. Definitions

In this Article, unless the context otherwise requires:

1. "Classification" means the names of the positions, and the ranks and classes thereof, in the police and fire departments and peace officers' units subject to this Article.
2. "Month" means thirty days.
3. "Peace officers" include regularly salaried deputy sheriffs, policemen and police officers of duly organized police departments.
4. "**Professional** firefighter" means a member of an **organized AND paid fire department**.