

PUBLIC EMPLOYEES' RETIREMENT BOARD

February 9, 2012

Topic: Opportunity Volunteer Fire Department

Acceptance of past Certificates that increase members' years of service

Staff recommendation:

Staff recommends the 18 members that have been listed on the FY2007-2008 Annual Certificate and verified to receive credit for that fiscal year be granted the year of credited service.

Board Motion:

Uphold Staff Recommendation

Other.

Moved by

Seconded by

Vote

INFORMAL CONSIDERATION

February 9, 2012

Petitioner: Opportunity Volunteer Fire Department (VFD)
Fire Chief: Jim Anderson
Contact: Jim Anderson, Fire Chief

Retirement System: VFCA

Request for Board Consideration:

The Opportunity VFD is requesting that the Board accept the late filed Annual Certificate filed on April 22, 2011 for the fiscal year 2007-2008. The Annual Certificate was signed by the Fire Chief and notarized on April 20, 2011. Included was the training documentation by fiscal year as is required. See details below.

How many fiscal years is the department requesting to file?

One; 2008

How many specific years of service are being requested?

1 year; 18 members

Has the actuary evaluated the impact of these years of service on the VFCA plan?

NO

Has the volunteer fire department filed the necessary qualifications as required by State law?

Yes

Was the appropriate training documentation submitted?

Yes, after three requests

How many times has the department filed late in the last 10 years?

One year – FY2007-2008 the year being considered.

Give details of any problems:

The training sent to MPERA was for FY2008-2009 and not for the correct fiscal year asking for consideration of credit.

Correspondence:

February 8, 2011: First letter to Fire Chief Jim Anderson requesting the late filing of the FY2007-2008 VFCA Annual Certificate because of two members asking for their retirement paperwork be sent to them so they could retire on

July 1, 2011. The letter specified that the certified training documentation must contain: date the training was offered; title of the training; description of the training; hours of training; each member's hours of training for each class. The letter also requested a letter be sent explaining why this certificate was filed late.

April 22, 2011: Received letter from Fire Chief Anderson certifying the enclosed training documentation that was received, and the notarized FY2007-2008 VFCA Annual Certificate.

December 6, 2011: Letter was sent to Fire Chief Anderson requesting a letter of explanation to the Board as to why the fiscal year was filed late. I also included a spreadsheet that was compiled by staff from the training sheet that had been sent on April 22, 2011. I had asked that a more detailed description of the training was needed.

December 16, 2011: Received a letter of explanation to the Board for the late filing of FY2007-2008 and a detailed description of the training.

December 23, 2011: Another letter was sent to Fire Chief Anderson because when reviewing it was discovered that the training documentation that was sent initially was for FY2008-2009 and not for the late filed FY2007-2008.

January 10, 2012: All requested information was received.

January 25, 2012: Review of information was done finding that there were questions on five of the members that were listed on the annual certificate and training records or members that were listed on one but not on the other. Phone call was placed to Fire Chief Anderson requesting clarification in writing of the discrepancies on the five members.

January 31, 2012: Called Fire Chief Anderson asking if he had sent the letter that was requested in the January 25 phone call. He said he had just sent it that morning.

RELEVANT LAW AND RULES:

Montana Code Annotated (Effective before July 1, 2011)

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.

19-17-402. 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 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.

Montana Code Annotated (Effective July 1, 2011)

19-17-108. Credit for service as a 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 throughout the entire fiscal year with a single fire company that is organized under Title 7, chapter 33, and continues to meet the requirements of 19-17-109.

(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 benefits.

(3) A volunteer firefighter may not receive credit for service during any fiscal year unless:

(a) during the fiscal year, the volunteer firefighter completes a minimum of 30 hours of training in firefighting duties as outlined in 19-17-105 under a formal program that has been formulated, supervised, and certified to the board by the chief or designated official of the fire company; and

(b) the volunteer firefighter's participation in the training program is documented in the fire company's records maintained pursuant to 19-17-111 by the chief or designated official.

19-17-112. Filing required reports – limitations. (1) 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 with the board an annual certificate, the current year's roster, and a membership card for each new member.

(2) (a) The annual certificate is a form reporting a fire company's membership eligibility for the previous fiscal year.

(b) The annual certificate must be completed on a form prescribed by the board and contain the date of organization of the fire company and 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 who successfully completed 30 hours of training during the preceding fiscal year, as required by 19-17-108.

(c) The chief or designated official shall subscribe and verify under oath, before a notary, that the fire company and members qualified under 19-17-108 and 19-17-109.

(d) The board shall maintain the certificate for the purpose of establishing service for members and eligibility for benefits.

(3) The roster must be signed by the fire chief or designated official, filed with the board, and contain information in writing that provides the names of the fire company, its date of organization, officers, and roll of active and inactive members for the current fiscal year. A roster may be updated to report new members but may not be retroactive.

(4) A membership card must be completed and filed with the board for each member who was a member on or before July 1, 2011, and for each new member who joins after July 1, 2011.

(5) The current fire chief shall file any late or amended annual certificates and the associated certified training records within 3 years of the original annual certificate due date. An annual certificate may be amended only once. The board shall consider and may approve late filings. Information provided to the board by the fire chief must be in accordance with the board's rules.

(6) The current fire chief may request to appear before the board for consideration of the request to file a late or amended annual certificate.

MPERA ARM

2.43.5001 BASIC UNIT OF SERVICE (1) As of July 1, 1965, the basic unit of service for volunteer firefighters is one fiscal year. Volunteer firefighters not continuously on the active membership list of a single qualifying volunteer fire company for the entire fiscal year shall not be listed on the annual certificate and shall not receive credit for service under the Volunteer Firefighters' Compensation Act (VFCA) for that fiscal year. A volunteer fire company qualifies to participate in the VFCA if the requirements of 19-17-402, MCA, are met.

(2) A volunteer firefighter shall receive one year of credit for service under the VFCA for each two full fiscal years of service performed prior to July 1, 1965. (History: 19-17-203, MCA; IMP, 19-17-201, 19-17-401, 19-17-402, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, from ARM 2.43.801, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.5002 FAILURE TO FILE REQUIRED REPORTS (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 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 and notarized. Annual certificate forms are provided by MPERA.

(2) Annual certificates filed after the September 1 due date 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. (History: 19-17-203, MCA; IMP, 19-17-201, 19-17-402, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, from ARM 2.43.802, 2008 MAR p. 2467, Eff. 12/01/08.)

Opportunity Volunteer Fire Department

Acceptance of past Certificates that increase members' years of service

Summary:

Fire Chief Jim Anderson was very helpful in getting his members' the credit that they deserve for FY2007-2008. The problem came with MPERA not having the staff to keep up on the late filings of Annual Certificates. With the legislative changes, lack of staff and many late filings, this one was not done at a reasonable amount of time.

1-30-2012
RECEIVED
FEB 01 2012
RETIREMENT BOARD

Diann,

According to my 07-08 fiscal year records Randy Dean has a total of 117 training hours, which is correct on your colored chart I had sent to you. He should receive credit for the 2007-2008 fiscal years.

Tom Vauthier had a total of 43 training hours from 7-10-07 till 1-29-08 and then he didn't show up for any more training meeting for the rest of 2008. He did not finish his fiscal year.

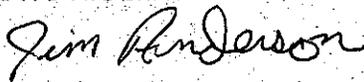
Jim Wyant had a total of 32 training hours the 2007-2008 fiscal year. He was with the department for the full year, so he should receive credit.

Tom Wyant had a total of 33 training hours for the 2007-2008 fiscal year and he was also with the department for the full year, so he also should receive credit.

James Travis Anderson had a total of 125 training hours completed for the fiscal year of 2007-2008. He started in July of 2007 with his probationary 6 months and went through the fiscal year. I think he should receive credit.

If you have any questions please call me at 406-560-8498

OVFD Fire Chief



Jim Anderson

2/1/2012 Spoke with Jim Anderson about James Travis Anderson receiving credit. I said if he had a probationary period of 6 months then the entry date of 1/8/2008 on the annual certificate was his entry date. Therefore, he was not eligible for credit because he was not with the department for a full fiscal year. (The probationary period is the fire department's rules).

Diann S.

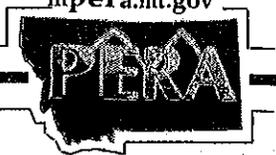


BRIAN SCHWEITZER
GOVERNOR

STATE OF MONTANA

HELENA (406) 444-3154
TOLL FREE (877) 275-7372
FAX (406) 444-5428

mpera.mt.gov



100 N. PARK, SUITE 200
PO BOX 200131
HELENA, MT 59620-0131

February 8, 2011

Jim Anderson, Fire Chief
Opportunity VFD
311 Stewart Street
Opportunity, MT 59711

Dear Fire Chief Anderson,

This letter is in regard to the late filing of the Volunteer Firefighters' Compensation Act (VFCA) Annual Certificate for FY2007-2008 for the members of Opportunity VFD.

The Public Employees' Retirement Board has decided that late certificates, when filed properly, accompanied by a letter of explanation from the fire chief and **certified** training documentation for the 30 or more hours of training, will be considered for acceptance.

The training information must be based on fiscal years (July 1st thru June 30th) and in an easily readable format. Training documentation must include the following:

- ❖ The date the training was offered;
- ❖ Title of the training;
- ❖ Description of the training;
- ❖ Hours of training;
- ❖ Each member's hours of training for each class.

Training does **not** include business meetings, emergency calls or vehicle or hall maintenance.

All the information that is requested for in this letter is required. Please make sure that everything is complete and included in your response to this letter. Any incomplete and/or indecipherable information will be returned, thus holding up the process or may cause denial of the year of service.

If you have questions, please call me at 406-444-3193 or toll free 1-877-275-7372 ext 3193.

Sincerely,

Diann Levandowski

Diann Levandowski
Assistant Fiscal Services Bureau Chief

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APR 22 2011

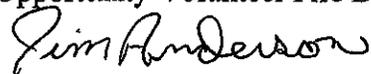
RETIREMENT BOARD

Diann,

As chief of the Opportunity Volunteer Fire Department I have recorded these training hours for the year of 2008 to be true and correct as are recorded in our training book.

Sincerely,

Jim Anderson
Opportunity Volunteer Fire Department Chief

A handwritten signature in cursive script that reads "Jim Anderson".

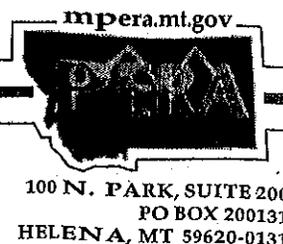
PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION



BRIAN SCHWEITZER
GOVERNOR

STATE OF MONTANA

HELENA (406) 444-3154
TOLL FREE (877) 275-7372
FAX (406) 444-5428



December 6, 2011

Jim Anderson, Fire Chief
Opportunity VFD
311 Stewart Street
Opportunity, MT 59711

Dear Fire Chief Anderson,

This letter is in regard to the late filing of the Volunteer Firefighters' Compensation Act (VFCA) Annual Certificate for FY2007-2008 for the members of Opportunity VFD.

When you sent in the training information and the completed Annual Certificate for FY2007-2008, you failed to include a letter of explanation to the Public Employees' Retirement Board (PERB) as to why this year was filed late. Please send a letter explaining the lateness of this filing.

I have also included a summary of your training records. I will need you to supply a more detailed description of the training that has been marked for further explanation. Please return the requested information and letter by December 20, 2011, so I have time to review and present to the Board at their January 2012 meeting.

If you have questions, please call me at 406-444-3193 or toll free 1-877-275-7372 ext 3193.

Sincerely,

Diann Levandowski
Diann Levandowski
Assistant Fiscal Services Bureau Chief

Enclosure

Opportunity Volunteer Fire Department

5N House, Opportunity, MT 59711

Est. 1983

December 14, 2011

Public Employee Retirement Administration
100 N. Park, Suite 200
Helena, MT 59620-0131

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DEC 16 2011

RETIREMENT BOARD

Dear Public Employees' Retirement Board,

I am writing in regard to your request for information on the FY2007-2008 late filing.

I misplaced my paper work after I had the county notarize it. Normally I have three copies made, one for the state, one for the county and one for the fire hall. I am sorry for the inconvenience and I will make sure that this doesn't happen again.

Sincerely,



Jim Anderson
Chief of the Opportunity Volunteer Fire Dept

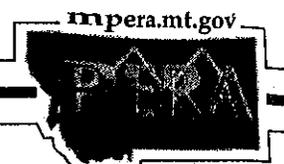
PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION



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100 N. PARK, SUITE 200
PO BOX 200131
HELENA, MT 59620-0131

December 23, 2011

Jim Anderson, Fire Chief
Opportunity VFD
311 Stewart Street
Opportunity, MT 59711

Dear Fire Chief Anderson,

This letter is in regard to the late filing of the Volunteer Firefighters' Compensation Act (VFCA) Annual Certificate for FY2007-2008 for the members of Opportunity VFD.

I have received your requested information but in looking over the training records closer I noticed that all the training that was sent by you was for FY2008-2009 (July 1, 2008 through June 30, 2009) and not for FY2007-2008 (July 1, 2007 through June 30, 2008), the actual year that is missing.

I will need you to send the training information for the correct fiscal year, July 1, 2007 through June 30, 2008. Remember that this information must be with complete descriptions of the training, date of training, hours of training, members who attended and their hours they attended the training, and the title of the training. Please return the requested training information by January 13, 2012, so I have time to review and present to the Board at their February 2012 meeting.

If you have questions, please call me at 406-444-3193 or toll free 1-877-275-7372 ext 3193.

Sincerely,

Diann Levandowski

Diann Levandowski
Assistant Fiscal Services Bureau Chief

Enclosure

cc: Ted Minnehan
Pete Reisenauer, Jr

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JAN 1 0 2012

RETIREMENT BOARD

Diann,

As you can see the 2007-2008 FY was a busy year for training hours for the Opportunity volunteer fire department, due to the purchasing of a new engine with a Fema grant that was received. This purchase accounted for a large amount of extra hours to make sure everyone in the department was trained thoroughly so they could run the truck properly. If you have any questions please call me at 406-560-8498.

OVFD Fire Chief

A handwritten signature in cursive script that reads "Jim Anderson".

Jim Anderson

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JAN 1 0 2012
RETIREMENT BOARD

Here is a list of members who have received their full amount of hours for the 2007-2008 FY. The members in green are the ones who have completed 30 hours or more of training during this year, and the member in red is the only one who fell short of 30 hours. Along with this list is a detailed table of dates, complete hours, training classes and descriptions of each training broken down as requested. If you have any questions you can give me a call at (406)560-8498

127	Jim Anderson
121	Chris Anderson
125	Travis Anderson
38	Greg Coward
147	Randy Dean
142	Gilbert Fischer
83	Nick Fischer
92	Donna Fode
39	Hans Lampert
66	Jolene Meshnik
54	Ted Minnehan
76	Robin Natchcom
42	Nathan Patterson
69	Al Pelly
91	Rete Paisenauer
96	Paul Smith
72	Tom Solan
43	Thomas Vaughan
32	Jim Wyant
33	Tom Wyant

1) Randy Dean 117 hrs but marked
"no" for credit

2) Thomas Vauthier 43 hrs but
not listed on annual cert. ^{Not} full ^{yr 3}

3) Jim Wyant 32 hrs but
not listed on annual cert.

4) Tom Wyant 33 hrs but
not listed on annual cert.

1/25/2015 @ 3:25pm spoke w/
FC Jim Anderson about the
discrepancies w/ the training
documentation + the annual
certificate. Asked him to
send me a letter detailing the
above people + Travis Anderson.
Ddd