

## INFORMAL CONSIDERATION

January 9, 2014

**Petitioner:** Race Track Volunteer Fire Department  
**Fire Chief:** William Boyle  
**Contact:** William Boyle & Mick Buben

**Retirement System:** VFCA

**Request for Board  
Consideration:**

**The Race Track VFD is requesting that the Board accept the late filed Annual Certificate filed on March 1, 2012 for the fiscal year 2009-2010. The Annual Certificate was signed by the Fire Chief and notarized. 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; 2010**

How many specific years of service are being requested?

**1 year; 11 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**

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

**One year – FY2009-2010, the year being considered**

Give details of any problems:

No problems existed in receiving the requested information.

**Correspondence:**

February 9, 2011: Letter sent by Diann Levandowski to Dave Isakson , informing him of information needed to amend Race Track's Annual Certificate.

March 7, 2011: MPERA received letter from fire chief, Annual Certificate, training documentation and roster from Bill Boyle.

March 14, 2011: Ashley Fregoso sent letter to Bill Boyle requesting clarification on training documentation , signing and notarizing of the annual certificate, and explanation of ineligible members.

January 20, 2012: Diann Levandowski sent follow up letter requesting a response to Ashley Fregoso's letter sent on March 14, 2011.

March 1, 2012: Notarized and signed Annual Certificate and roster received by MPERA from fire chief, Bill Boyle.

March 29, 2012: Detailed training documentation received by MPERA from fire chief, Bill Boyle.

### **Race Track Volunteer Fire Department**

Acceptance of past Certificates that increase members' years of service

#### **Summary:**

Pursuant to § 19-17-112 (5), MCA a late filed certificate must be filed within 3 years of the due date. FY2009-2010 Annual Certificate was due on September 1, 2010. The information was received back on March 1, 2012. With the high turnover of staff in the Accounting Department and many other volunteer fire departments being added to the list of late filed and missing certificates, this consideration was missed.

**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.

**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.

**Montana Code Annotated** (Effective July 1, 2011)

**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.

**Montana Code Annotated** (Effective before July 1, 2011. Repealed in 2011 Legislature and added to 19-17-112, MCA)

**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.

## **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.)

**PUBLIC EMPLOYEES' RETIREMENT BOARD**

January 9, 2014

Topic: **Race Track Volunteer Fire Department**

Acceptance of past Certificates that increase members' years of service

**Staff recommendation:**

Staff recommends the 11 members of the Race Track VFD be granted the year of credited service. The members were listed on the late filed FY2009-2010 Annual Certificate and verified to receive credit for that fiscal year.

**Board Motion:**

Uphold Staff Recommendation

Other.

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Moved by

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Seconded by

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Vote