

PUBLIC EMPLOYEES' RETIREMENT BOARD

October 8, 2015

Topic: **Stevensville VFD, Westside Co**

Acceptance of past Certificates that increase members' years of service

Staff recommendation:

Staff recommends the 5 members for FY2013 be granted a year of credited service for fiscal year 2013. The members were listed on the late filed FY2013 Annual Certificate and verified to receive credit for that fiscal year within 19-17-112(5), MCA.

Board Motion:

Uphold Staff Recommendation

Other.

Moved by

Seconded by

Vote

INFORMAL CONSIDERATION

October 8, 2015

Petitioner: Stevensville VFD, Westside Co

Fire Chief: Rex Olson

Contact: Rex Olson

Retirement System: VFCA

Request for Board

Consideration: **The Stevensville, Westside Co is requesting that the Board accept the late filed Annual Certificate for the fiscal year 2013. 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.**

Amended or late filed Annual Certificate(s)?

Late filed

How many fiscal years is the department requesting to file?

One; 2013

How many specific years of service are being requested?

FY2013; 5 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 for FY2013

Give details of any problems:

Problems encountered were in the receipt of the necessary information from the Fire Chief when the Annual Certificate was first filed. The original Annual Certificate was filed nine days late and not correctly completed by the fire chief.

Stevensville VFD, Westside Co

Acceptance of past Certificates that increase members' years of service

Summary:

Pursuant to § 19-17-112 (5), MCA a late or amended annual certificate and the associated certified training records must be filed within 3 years of the original annual certificate due date. An annual certificate may only be amended once.

The original filing of the FY2013 was due on September 1, 2013. In order to be considered for a late filing, information needed to be received before September 1, 2016. The incomplete original annual certificate was received on September 10, 2013. The complete annual certificate was received on December 17, 2014 with the required certified training documentation. Therefore, the information was late filed within the 3 years of the original due date of September 1, 2013. Five members qualify for credit for FY2013.

Correspondence:

2013 – There were six members listed on the original FY2013 VFCA Annual Certificate, these were members who had received credit for FY2012 and were computer filled in on the FY2013 Annual Certificate. When the original FY2013 VFCA Annual Certificate was received back from the Fire Chief on September 10, 2013 the *Credit Column* was not filled in with a “Yes” or “No” for the listed members. The Annual Certificate was accompanied by a letter from Brandon Dewey, Administrative Assistant/District Clerk of the Stevensville VFD, along with what was called a “roster” of the members who should receive credit. This Annual Certificate was sent back to Brandon Dewey with a letter dated October 1, 2013 explaining that it was up to the Fire Chief to completely fill out the information on the annual certificate. The “roster” was not signed by the fire chief, certified or notarized attesting to the information being true. The Annual Certificate had been notarized and signed by the fire chief but not updated.

2014 – Phone call received from Fire Chief Rex Olson asking about a late filing for FY2013 VFCA Annual Certificate. On November 3, letter was sent to Fire Chief Rex Olson with a blank FY2013 VFCA Annual Certificate, training summary template, and a training report template. The letter explained the required documentation needed for the late filing. On December 17, 2014, MPERA received the completed annual certificate and training documentation.

2015 – In July and August, the training summary was compiled. In September, Ms. Diann Levandowski reviewed the training summary and the annual certificate and found two members listed that did not receive enough credited training hours and one member that had enough hours was not listed. A letter, copy of the annual certificate, and the training summary were sent to Fire Chief Olson for his addition of the new member and to have the annual certificate re-notarized because of the addition. He was also instructed to inform the two members that had not qualified for credit that they would not receive the credit for FY2013.

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.)