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Police Officers' and Firefighters'

Pension Reform Commission

Report to the

COLORADO

GENERAL ASSEMBLY

Colorado Legislative Council
Research Publication No. 486
December 2000

RECOMMENDATIONS FOR 2001

POLICE OFFICERS' AND FIREFIGHTERS' PENSION REFORM COMMISSION

Report to the
Colorado General Assembly

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December 2000

To Members of the Sixty-second General Assembly:

Submitted herewith is the final report of the Police Officers' and Firefighters' Pension Reform Commission. This commission is a statutory committee established under Section 31-31-1001, C.R.S.

At its meeting on October 16, 2000, the Legislative Council reviewed the report of this commission. A motion to forward this report and the bills therein for consideration in the 2001 session was approved.

Respectfully submitted,

/s/ ______________

Representative Doug Dean
Chairman
Legislative Council

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RECOMMENDED BILLS AND FISCAL NOTES

Police Officers' and Firefighters' Pension Reform Commission

Members of the Commission

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Representative Steve Johnson,
Vice Chairman
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Geoffrey Johnson
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Steve Tammeus
Senior Fiscal Analyst

Office of Legislative Legal Services

Christy Chase
Staff Attorney

Nicole Hoffman
Legislative Drafter

Statutory Authority and Responsibilities

Commission Charge

In 1978, Senate Bill 46 (Parts 8 and 9, Article 30, Title 31, C.R.S.) created a statutory Police Officers' and Firefighters' Pension Reform Commission to study and develop legislation relating to the funding of police and fire pensions and the benefit designs of such plans. In 1996, Senate Bill 96-11 relocated these provisions to Articles 30.5 and 31 of Title 31, C.R.S.

Commission Activities and Recommendations

At its meeting on September 13, 2000, the Commission received an historical overview of state involvement in fire and police pension plans, a review of the 2000 Fire and Police Pension Association (FPPA) annual financial report, and detail about 1999 FPPA investment performance. The pension fund currently controls in excess of $2.6 billion in assets. The commission considered legislation requested by the Board of Directors of the FPPA.

As a result of commission discussion and deliberation, the commission recommends three bills for consideration in the 2001 legislative session.

Bill A — Concerning Revisions to the Laws Governing New Hire Fire and Police Pension Plans.

Bill A is a "housekeeping bill" designed to clarify certain statutes, expedite processes, and standardize treatment of members of the Fire and Police Pension Association. The bill makes the following changes:

Amendments Concerning the Statewide Defined Benefit Plan

- clarifies that normal retirement eligibility is age 55 with 25 years of service;
- reduces the penalty for early retirement;
- allows the designated beneficiary of a member eligible for normal retirement to receive a pension in the event the member dies before electing a payment option;
- treats electronic funds transfers identical to checks;

- allows members to defer receipt of benefits as allowed by the IRS to avoid taxation for early withdrawal; and

- allows a vested single member's estate to receive the member's separate retirement account, earnings, and member contributions if there is no designated beneficiary.

Amendments Concerning the Statewide Death and Disability Plan

- allows dependent children who have reached age 19 to continue to receive benefits until 23, if they are in high school or college;

- allows incapacitated children to become married and still receive benefits;

- clarifies that since members who become eligible for normal retirement are ineligible for benefits under the Death and Disability Plan, they are therefore not required to contribute to the plan;

- requires actuarial reports to be provided annually for the Plan; and

- allows the FPPA Board to establish rules for the administrative approval of disability applications in order to shorten processing times.

General Amendments

- clarifies that the definition of "employer" in statutes governing new hire pension plans for firefighters and police officers includes "fire authorities";

- allows local pension plans to obtain the names and addresses of retirees of affiliated plans;

- expedites the process to establish participation in the Statewide Money Purchase Plan;

- allows employers with multiple plans to exercise affiliation options on an individual plan basis; and

- allows administrative support staff to participate in the 457 Deferred Compensation Plan.

Bill A is assessed as having no fiscal impact.

Bill B — Concerning Survivor Benefits for Certain Survivors of Members of the Statewide Death and Disability Pension Plan for Police Officers and Firefighters Upon the Death of a Member in Active Service Who is Not Eligible for a Normal Retirement Pension.

This bill increases survivor benefits in the Statewide Death and Disability Plan for a spouse, child, or a spouse and child to 40 percent if the member dies while in active service. The bill also clarifies the division of benefits between children who live in a separate household from a surviving spouse and from benefits allocated to other surviving children.

Bill B is assessed as having no fiscal impact.

Bill C — Concerning Calculations of the Contributions Necessary to Eliminate the Unfunded Liability of State-Assisted Old Hire Police Officers' and Firefighters' Pension Plans.

Employers who wish to receive state financial assistance in amortizing unfunded accrued liability in their pension plans are currently required to file a biennial actuarial study with the FPPA. Bill C requires these actuarial studies to be filed annually. The bill also requires the FPPA Board of Directors to submit an annual, rather than a biennial, report to the Joint Budget Committee or to the Police Officers' and Firefighters Pension Reform Commission reviewing the status of all employers having an accrued unfunded liability.

The bill also directs the FPPA Board to annually determine whether the total of state and employer contributions to any state-assisted old hire pension plan is greater than the amount necessary to eliminate the remaining unfunded liability of the plan. If so, the contributions are to be reduced accordingly.

Bill C is assessed as having no fiscal impact.

RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council Staff during the course of the study. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver. For a limited period of time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

www.state.co.us/gov_dir/leg_dir/lcsstaff/2000/00interim

1. *Staff Summary of Meeting, September 13, 2000.*

2. *Fire and Police Pension Association of Colorado Annual Update, prepared for the State of Colorado Pension Reform Commission, September, 2000.*

Bill A

HOUSE SPONSORSHIP

Mace, Alexander, Miller, Plant, Ragsdale, Scott, and Smith

SENATE SPONSORSHIP

Andrews

A BILL FOR AN ACT

CONCERNING REVISIONS TO THE LAWS GOVERNING NEW HIRE FIRE AND POLICE PENSION PLANS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Police Officers' and Firefighters' Pension Reform Commission. Makes revisions to provisions governing fire and police pension plans.

Generally.

Amends the definition of "employer" to include fire authorities. Authorizes the board of directors (board) of the fire and police pension association (FPPA or association) to release the names and addresses of retirees of a plan affiliated with the association to the local pension board under certain circumstances.

Statewide defined benefit plan.

Clarifies the normal retirement age under the statewide defined benefit plan. Changes the method by which early retirement benefits are reduced to reflect early receipt of benefits. Allows a member's designated beneficiary to receive a pension in the event the member dies before electing a payment option. Clarifies that a pension election is irrevocable upon deposit or other negotiation of a pension payment. Authorizes the board to promulgate rules to allow members who are eligible for retirement to defer receipt of retirement benefits in accordance with federal law. Clarifies that earnings accruing on a member's separate retirement account are to be allocated monthly until the account is exhausted. Specifies the conditions under which the balance, accumulated contributions, and earnings on a member's separate retirement account will be paid to the member's estate.

Statewide money purchase plan.

Alters the effective date of withdrawals from the statewide defined benefit plan to the statewide money purchase plan, the deadline for obtaining member approval, and the updating of actuarial reports when required by board rules.

Affiliated plans.

Allows an employer with multiple plans to exercise options to affiliate with or withdraw from the association on an individual plan basis.

Disability and survivor benefits.

Amends the definition of "dependent child" to include:

- Any unmarried child who is under the age of 23 and enrolled in high school; or
- Any mentally or physically disabled child regardless of marital status.

Precludes the contribution toward the death and disability plan and the payment of disability or survivor benefits if the member:

- Participates in the statewide money purchase plan or a local money purchase plan; and
- Has reached age 55 with 25 years of accumulated service.

Authorizes the board to establish an administrative process for determining a claim for a death or disability benefit.

Eliminates earned income offsets and reporting requirements for disability recipients for income earned after the calendar year in which the recipient attains the age of 55 years. Requires the board to submit an annual rather than a biennial actuarial valuation report to the state auditor, the legislative audit committee, and the joint budget committee.

Deferred compensation plan.

Allows employees who provide direct support to an employer's public safety department to participate in the deferred compensation plan adopted by the employer.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 31-31-102 (3), Colorado Revised Statutes, is amended to read:

31-31-102. Definitions. As used in this article, unless the context otherwise requires:

(3) "Employer" means any municipality in this state offering police or fire protection service employing one or more members and any special district, FIRE AUTHORITY, or county improvement district in this state offering fire protection service employing one or more members.

SECTION 31-31-202, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-31-202. Powers and duties of the board. (5.5) THE BOARD MAY RELEASE THE NAMES AND ADDRESSES OF RETIREES OF A PLAN AFFILIATED WITH THE FIRE AND POLICE PENSION ASSOCIATION PURSUANT TO PART 7 OF THIS ARTICLE TO THE LOCAL PENSION BOARD OF THE AFFILIATED PLAN IF:

(a) THE LOCAL PENSION BOARD HAS FILED A WRITTEN REQUEST IN THE MANNER PRESCRIBED BY THE ASSOCIATION; AND

(b) THE LOCAL PENSION BOARD HAS PROVIDED THE BOARD WITH WRITTEN ASSURANCES THAT THE INFORMATION REQUESTED WILL BE USED ONLY FOR PENSION-RELATED PURPOSES.

SECTION 31-31-403 (1), (4), (5) (b) (II), (5) (b) (III), and (5) (c), Colorado Revised Statutes, are amended, and the said 31-31-403 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-31-403. Normal retirement - statewide defined benefit plan. (1) (a) Any member covered by the statewide defined benefit plan who has completed at least twenty-five years of active service and has attained the age of ~~sixty~~ FIFTY-FIVE years shall be eligible for a normal retirement pension ~~but any member shall be eligible for a normal retirement pension at any time after attaining the age of fifty-five years if the member's employer has certified to the board that there is no available position for which such member is qualified~~ SUBJECT TO ADJUSTMENT PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1). The annual normal retirement pension shall be two percent of the average of the member's highest three years' base salary multiplied by the member's years of service, not to exceed twenty-five.

(b) The board shall determine after each annual actuarial valuation if the cost of all benefits established by this part 4 for members covered under this section and the cost of a normal retirement pension beginning ~~from one to sixty months before age sixty~~ AT AGE FIFTY-FIVE for members then eligible may be fully funded on an actuarially sound basis without necessitating an increase in the eight percent employer and eight percent member contributions made pursuant to section 31-31-402. If the board CANNOT so ~~determines~~ DETERMINE, it shall order that the normal retirement pension commence such number of months as are actuarially supportable, from one to sixty, ~~before age sixty~~ AFTER AGE FIFTY-FIVE for members who have completed at least twenty-five years of active service and are otherwise eligible in accordance with the board's determination. The determination of the board shall be conclusive in the absence of fraud. A pension commenced ~~before age sixty~~ AFTER AGE FIFTY-FIVE pursuant to this paragraph (b) shall not be subject to annual review. If a court determines that this paragraph (b) is invalid, the age of retirement to be eligible for any normal retirement benefit shall be age sixty except for persons receiving a benefit at the time of the court's decision.

(4) Any member covered by the statewide defined benefit plan who has completed at least thirty years of active service or has attained the age of fifty years ~~and~~ who is not receiving benefits pursuant to section 31-31-803 may elect to retire from active service and shall be eligible for an early retirement pension. The annual early retirement pension for a member shall be the ~~normal retirement pension provided by subsection (1) of this section reduced by one-half of one percent of the normal retirement pension per month for each month or portion thereof that such member is less than sixty years of age at the time of such election~~ BENEFIT, AS DETERMINED BY THE BOARD, THAT THE MEMBER WOULD HAVE RECEIVED AT NORMAL RETIREMENT REDUCED ON AN ACTUARIAL EQUIVALENT BASIS TO REFLECT THE EARLY RECEIPT OF THE BENEFIT.

(5) (b) A member shall be considered to have elected option 1 and retired on the day before the member's death if the member is eligible for a normal or early retirement pension and dies:

(II) Before ~~receiving the member's first pension check~~ THE FIRST PENSION PAYMENT HAS BEEN DEPOSITED OR OTHERWISE NEGOTIATED or sixty days from the date of issuance of such check, whichever occurs first; and

(III) Is survived by a spouse, ~~or~~ a dependent child, OR A DESIGNATED BENEFICIARY.

(c) After an election has been made of any of the options provided in paragraph (a) of this subsection (5) and the ~~member has cashed the first pension check~~ FIRST PENSION PAYMENT HAS BEEN DEPOSITED OR OTHERWISE NEGOTIATED BY THE MEMBER, or sixty days from date of issuance of the check have elapsed, whichever occurs first, the election shall be irrevocable. The member's beneficiary designation shall also be irrevocable at such time unless the member's marital status changes as the result of dissolution of marriage, death of a beneficiary, marriage, remarriage, or in the event of the death of a beneficiary. In such case, the member may designate a new beneficiary; except that, in cases of dissolution of marriage, this provision shall only apply to any final dissolution of marriage decree of a member entered on or after July 1, 1990.

(8) THE BOARD MAY PROMULGATE RULES TO ALLOW MEMBERS WHO ARE ELIGIBLE TO RECEIVE ANY TYPE OF RETIREMENT BENEFITS TO DEFER RECEIPT OF THE BENEFITS TO THE EXTENT PERMITTED UNDER SECTION 401 (a) (9) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 401 (a) (9), AS AMENDED, AND THE REGULATIONS PROMULGATED PURSUANT TO SECTION 401 (a) (9).

SECTION 31-31-404 (2), Colorado Revised Statutes, is amended, and the said 31-31-404 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-31-404. Return or transfer of contributions - vested retirement. (2) (a) In lieu of having the member's contributions returned as provided in paragraph (a) of subsection (1) of this section, a member who has at least ten years of credited service may leave the contributions with the fund. When the inactive member attains age ~~sixty-five~~ FIFTY-FIVE, the member shall be eligible to receive an annual vested benefit equal to two percent of the member's average highest three years' salary multiplied by years, not to exceed twenty-five, of active service. Any such member shall be eligible to receive the applicable vested benefit as provided in this section or to make an election for a reduced pension in the manner provided in section 31-31-403 (5). All the provisions of section 31-31-403 (5) shall apply to the member; except that the benefits used to calculate the reduced benefits shall be the vested benefit provided to the member under this section rather than the retirement benefit provided in section 31-31-403. The member may not elect one of the options earlier than sixty days prior to the commencement of vested benefit payments. In the event that an inactive member who is eligible for vested benefits dies prior to the commencement of the member's benefit payments, the fire and police pension association shall refund the inactive member's contributions to the member's estate, and no vested benefits shall be payable to the inactive member's survivors or beneficiaries.

(b) The board shall determine after each annual actuarial valuation if the cost of all benefits established by this part 4 for members covered under section 31-31-403 and the cost of vested benefits beginning ~~from one to one hundred twenty months before age sixty-five~~ AT AGE FIFTY-FIVE for members then eligible may be fully funded on an actuarially sound basis without necessitating an increase in the eight percent employer and eight percent member contributions made pursuant to section 31-31-402. If the board CANNOT so ~~determines~~ DETERMINE, it shall order that the vested benefits commence such number of months as are actuarially supportable, from one to one hundred twenty, ~~before age sixty-five~~ AFTER AGE FIFTY-FIVE for eligible members in accordance with the board's determination. The determination of the board shall be conclusive in the absence of fraud. A vested benefit commenced before age ~~sixty-five~~ FIFTY-FIVE pursuant to this paragraph (b) shall not be subject to annual review. If a court determines that this paragraph (b) is invalid, the age to be eligible for a vested benefit shall be age sixty-five except for persons receiving a benefit at the time of the court's decision.

(3) THE BOARD MAY PROMULGATE RULES TO ALLOW MEMBERS WHO ARE ELIGIBLE TO RECEIVE ANY TYPE OF RETIREMENT BENEFITS TO DEFER RECEIPT OF THE BENEFITS TO THE EXTENT PERMITTED UNDER SECTION 401 (a) (9) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 401 (a) (9), AS AMENDED, AND THE REGULATIONS PROMULGATED PURSUANT TO SECTION 401 (a) (9).

SECTION 31-31-405 (3), Colorado Revised Statutes, is amended to read:

31-31-405. Separate retirement account - creation - allocation. (3) Earnings accruing on the amount allocated to the member's separate retirement account shall be allocated at least monthly on a time-weighted basis as determined by the board UNTIL THE ACCOUNT IS EXHAUSTED.

SECTION 31-31-406 (2) (a) and (4), Colorado Revised Statutes, are amended, and the said 31-31-406 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read: **31-31-406. Separate retirement accounts - administration.** (2) (a) Any member having a separate retirement account who is retired for disability shall receive the entire balance in the member's separate retirement account in accordance with the member's selection of one of the payment options permitted by subsection (3) of this section OR PURSUANT TO RULES PROMULGATED BY THE BOARD THAT ALLOW MEMBERS WHO ARE ELIGIBLE TO RECEIVE RETIREMENT BENEFITS TO DEFER RECEIPT OF THE

BENEFITS TO THE EXTENT PERMITTED UNDER SECTION 401 (a) (9) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 401 (a) (9), AS AMENDED, AND THE REGULATIONS PROMULGATED PURSUANT TO SECTION 401 (a) (9). If the member subsequently returns to work pursuant to section 31-31-805 (2) and had been receiving periodic payments from the member's separate retirement account, such payments shall cease and any remaining balance shall remain in the member's separate retirement account, subject to subsequent distribution in accordance with this section.

(4) A member may elect to commence payment of the amount in the member's separate retirement account at any time after the member terminates service but in no event later than the commencement of the member's retirement benefits under section 31-31-403 or 31-31-404 (2). A member will continue to accrue earnings on the amount in the member's separate retirement account until such time as the ~~member begins receiving payments under one of the options in subsection (3) of this section~~ ACCOUNT IS EXHAUSTED.

(7) THE BALANCE IN A MEMBER'S SEPARATE RETIREMENT ACCOUNT, THE MEMBER'S ACCUMULATED CONTRIBUTIONS TO THE ACCOUNT, AND THE EARNINGS ON THE ACCOUNT SHALL BE PAID TO THE MEMBER'S ESTATE IF THE MEMBER:

(a) DIES WHILE IN ACTIVE SERVICE;

(b) HAS MORE THAN TEN YEARS OF CREDITED SERVICE;

(c) DOES NOT LEAVE A SURVIVING SPOUSE, DEPENDENT CHILD, OR DESIGNATED BENEFICIARY; AND

(d) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403 AT THE TIME OF DEATH.

SECTION 31-31-501 (2) (a) and (2) (d) and the introductory portion to 31-31-501 (4) (a) (II), Colorado Revised Statutes, are amended to read:

31-31-501. Withdrawal into statewide money purchase plan. (2) (a) The employer may initiate withdrawal from the statewide defined benefit plan by filing with the board a resolution adopted by the employer pursuant to paragraph (b) of this subsection (2) no less than nine months prior to the effective date of withdrawal unless a shorter waiting period is approved by the board. The effective date of withdrawal shall be ~~January 1 of the year~~ THE FIRST DAY OF THE MONTH IMMEDIATELY following the MONTH IN WHICH THE waiting period EXPIRES.

(d) The board shall promulgate rules relating to standards for disclosure of all ramifications and procedures for obtaining the member approval provided for in paragraph (c) of this subsection (2). ~~but such approval must be obtained no later than June 1 of the year preceding the effective date of withdrawal.~~

(4) (a) (II) At least sixty days prior to the effective date of the withdrawal, the actuarial reports shall be updated and APPROPRIATE adjustments made ~~as appropriate,~~ to the amount of reserves transferred by the board to the short-term investment account on behalf of the employer IF AN UPDATE IS REQUIRED PURSUANT TO RULES ADOPTED BY THE BOARD. Within thirty days ~~of~~ AFTER the receipt of such updated reports, the withdrawal may be terminated by either:

SECTION Part 7 of article 31 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-31-707. Multiple plan employers. AN EMPLOYER WITH MULTIPLE PLANS MAY EXERCISE ITS OPTIONS OF AFFILIATION AND WITHDRAWAL PURSUANT TO THIS ARTICLE ON AN INDIVIDUAL PLAN BASIS.

SECTION 31-31-801 (2), Colorado Revised Statutes, is amended to read:

31-31-801. Definitions. As used in this part 8, unless the context otherwise requires:

(2) "Dependent child" means an unmarried child under the age of nineteen or, if such child is enrolled as a full-time student at A SECONDARY SCHOOL OR an accredited institution of higher education, under the age of twenty-three and includes, if the board so determines, any child, ~~of whatever~~ REGARDLESS OF age OR MARITAL STATUS, who is so mentally or physically incapacitated that the child cannot provide for the child's own care. The term also includes a child who is conceived but unborn at the date of the member's death or the date of disability, whichever applies. Any applicable increase in benefits will occur upon birth.

SECTION 31-31-803 (1) (a), (2), (4) (a) (II), and (9), Colorado Revised Statutes, are amended, and the said 31-31-803 (4) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

31-31-803. Retirement for disability. (1) (a) (I) Any member hired before, on, or after April 7, 1978, ~~who is not eligible for the normal retirement pension described in section 31-31-403 or a local defined benefit retirement pension selected pursuant to section 31-31-704 (3) or provided pursuant to article 30.5 of this title, whichever is applicable, and~~ who becomes totally disabled, as defined in section 31-31-801 (4), shall be retired from active service for disability and shall be eligible to receive the disability benefit provided by this subsection (1) or section 31-31-806.5 IF THE MEMBER:

(A) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403 OR A LOCAL DEFINED BENEFIT RETIREMENT PENSION SELECTED PURSUANT TO SECTION 31-31-704 (3) OR PROVIDED PURSUANT TO ARTICLE 30.5 OF THIS TITLE; OR

(B) HAS NOT REACHED AGE FIFTY-FIVE WITH TWENTY-FIVE YEARS OF ACCUMULATED SERVICE AS A MEMBER AND IS A PARTICIPANT UNDER THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE OR UNDER A LOCAL MONEY PURCHASE PLAN.

(II) The normal annual disability benefit for total disability for ~~such~~ A member WHO IS RETIRED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) shall be seventy percent of the annual base salary paid to ~~such~~ THE member immediately preceding retirement for disability. ~~which~~ THE BENEFIT shall be increased by ten percent or twenty percent of the annual base salary depending on the level of benefit elected by a member participating in the supplemental disability benefit program described in section 31-31-803.5.

(2) (a) ~~Any member who is not eligible for the normal retirement pension described in section 31-31-403 or a local defined benefit retirement pension selected pursuant to section 31-31-704 (3) or provided pursuant to article 30.5 of this title, whichever is applicable, and~~ A MEMBER who becomes occupationally disabled, as defined in section 31-31-801 (3), shall be retired from active service for such time as the occupational disability continues and shall be eligible to receive the disability benefit provided by this subsection (2) or section 31-31-806.5 IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403 OR A LOCAL DEFINED BENEFIT RETIREMENT PENSION SELECTED PURSUANT TO SECTION 31-31-704 (3) OR PROVIDED PURSUANT TO ARTICLE 30.5 OF THIS TITLE; OR

(II) HAS NOT REACHED AGE FIFTY-FIVE WITH TWENTY-FIVE YEARS OF ACCUMULATED SERVICE AS A MEMBER AND IS A PARTICIPANT UNDER THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE OR UNDER A ~~LOCAL~~ MONEY PURCHASE PLAN.

(b) The annual disability benefit for occupational disability for ~~such~~ A member WHO IS RETIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) shall be thirty percent of the annual base salary paid to ~~such~~ THE member immediately preceding retirement for disability. ~~which~~ THE BENEFIT shall be increased by:

~~(a)~~ (I) Ten percent of the annual base salary if such member had a spouse at the time of becoming occupationally disabled, for so long as such spouse survives and is married to such member or is legally entitled to maintenance from such member;

~~(b)~~ (II) Ten percent of the annual base salary if such member has any dependent children;

~~(c)~~ (III) Ten percent or twenty percent of the annual base salary depending on the level of benefit elected by a member participating in the supplemental disability program described in section 31-31-803.5.

(4) (a) (II) The board may consider any relevant evidence, including medical evidence, in making its determination regarding the origin of an applicant's disability and may request that the three physicians appointed by the board to examine the applicant also provide an opinion as to whether the applicant's injury was received while performing official duties or whether the applicant's occupational disease arose out of and in the course of the applicant's employment. ~~In all cases under this section or section 31-31-806.5, the board is authorized to appoint hearing officers who are experienced in disability matters to conduct hearings on any issue relating to the applicant's disability. The hearing officers shall make findings and submit recommendations to the board for final action.~~

(III) IN ALL CASES UNDER THIS SUBSECTION (4), SECTION 31-31-805, OR SECTION 31-31-806.5, THE BOARD:

(A) MAY APPOINT HEARING OFFICERS WHO ARE EXPERIENCED IN DISABILITY MATTERS TO CONDUCT HEARINGS AND MAKE FINDINGS AND RECOMMENDATIONS TO THE BOARD ON ANY ISSUE RELATING TO AN APPLICANT'S DISABILITY;

(B) MAY ADOPT RULES TO ESTABLISH A PROCESS FOR THE ADMINISTRATIVE APPROVAL OF DISABILITY APPLICATIONS, INCLUDING STANDARDS OF REVIEW FOR THE APPLICATIONS, WITHOUT BOARD REVIEW; AND

(C) SHALL TAKE ANY FINAL ACTION THAT CONSTITUTES A DENIAL OF A DISABILITY APPLICATION OR A REDUCTION OF A BENEFIT.

(9) After an election has been made of any of the options provided in paragraph (b) of subsection (1) or paragraph (a) of subsection (8) of this section, the election shall be irrevocable ~~upon the member cashing~~ WHEN the first disability benefit ~~check~~ PAYMENT HAS BEEN DEPOSITED OR OTHERWISE NEGOTIATED BY THE MEMBER or sixty days ~~from~~ AFTER the date of issuance of the check, whichever occurs first. The member's beneficiary designation shall also be irrevocable at such time unless the member's marital status changes as a result of dissolution of marriage, death of a beneficiary, marriage, or

remarriage or in the event of the death of a beneficiary. In such case, the member may designate a new beneficiary; except that, in cases of dissolution of marriage, this subsection (9) shall only apply to any final dissolution of marriage decree of a member entered on or after July 1, 1990.

SECTION 31-31-803.5 (1) (c), Colorado Revised Statutes, is amended to read:

31-31-803.5. Supplemental disability benefit program. (1) The board may establish a supplemental disability benefit program that provides additional disability benefits to members who participate in such program and who are retired for disability pursuant to section 31-31-803 or section 31-31-806.5. Any supplemental disability benefit program established pursuant to this subsection (1) shall meet the following requirements:

(c) The cost of funding the supplemental disability benefit program shall be by contributions made by participating members at a rate to be determined as a percentage of the member's base salary pursuant to the ~~biennial~~ ANNUAL actuarial valuation required by section 31-31-811 (2) (b) (II). The contribution rate shall be adjusted every two years in order to reflect changes in the cost of such program determined by the ~~biennial~~ ANNUAL actuarial valuation.

SECTION 31-31-804 (1) (a) and (1) (c), Colorado Revised Statutes, are amended to read:

31-31-804. Reduction of disability benefits. (1) (a) If a member has any earned income other than that provided by a disability benefit award under section 31-31-803 or 31-31-806.5 and, if applicable, a workers' compensation award that provides a total income greater than an amount equal to one hundred percent of the base salary provided to an active member of the same rank at which the member retired, the disability benefit shall be reduced by twenty-five percent of the additional earned income. THE REDUCTION SHALL BE MADE FOR INCOME EARNED UP TO AND INCLUDING THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS AGE FIFTY-FIVE. In calculating total income for purposes of this paragraph (a), the amount includable with respect to money purchase plan benefits that a member is eligible to receive shall be the same amount as calculated pursuant to subsection (2) of this section.

(c) Any member receiving a disability benefit pursuant to section 31-31-803 or 31-31-806.5 shall file an annual report concerning any additional ~~earned~~ income EARNED UP TO AND INCLUDING THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS AGE FIFTY-FIVE. If such member knowingly fails to file such report or files a fraudulent report, the disability benefit shall be discontinued.

SECTION 31-31-807 (1), Colorado Revised Statutes, is amended to read:

31-31-807. Death of member - survivor benefits. (1) (a) If a member ~~who is not eligible for the normal retirement pension described in section 31-31-403~~ dies while in active service and leaves a surviving spouse or dependent children, or both, one of the ~~following~~ survivor benefits DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) shall be paid ~~unless the member is eligible for a normal retirement pension under an old hire pension plan established pursuant to article 30.5 of this title that provides for postretirement survivor benefits to a spouse and dependent children in the event the member dies in active service while eligible for normal retirement~~ IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION PLAN ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS

TITLE THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE AND DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT; AND

(II) (A) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403; OR

(B) HAS NOT REACHED AGE FIFTY-FIVE WITH TWENTY-FIVE YEARS OF ACCUMULATED SERVICE AS A MEMBER AND IS A PARTICIPANT UNDER THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE OR UNDER A LOCAL MONEY PURCHASE PLAN.

(b) ONE OF THE FOLLOWING SURVIVOR BENEFITS SHALL BE PAID IF THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (1) ARE SATISFIED:

~~(a)~~ (I) When there is a surviving spouse and no dependent children, the monthly benefit shall be twenty-five percent of the monthly base salary paid to such member immediately preceding death plus one-half of one percent of such salary for each year of the member's active service in excess of twenty-five years, but such benefit shall not exceed thirty-five percent of such salary.

~~(b)~~ (II) When there is a surviving spouse and one dependent child, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(c)~~ (III) When there is a surviving spouse and two or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(d)~~ (IV) When there is no surviving spouse and three or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(e)~~ (V) When there is no surviving spouse and two dependent children, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(f)~~ (VI) When there is no surviving spouse and one dependent child, the monthly benefit shall be twenty-five percent of the monthly base salary paid to such member immediately preceding death.

SECTION 31-31-807.5, Colorado Revised Statutes, is amended to read:

31-31-807.5. Death of member - line-of-duty - survivor benefits. (1) (a) If a member ~~who is not eligible for the normal retirement pension described in section 31-31-403~~ dies while in active service as the direct and proximate result of a personal injury sustained while performing official duties or as a result of an occupational disease arising out of and in the course of the member's employment and leaves a surviving spouse or dependent children, or both, one of the ~~following~~ survivor benefits DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) shall be paid ~~unless the member is eligible for a normal retirement pension under an old hire pension established pursuant to article 30.5 of this title that provides for postretirement survivor benefits to a spouse and dependent children in the event the member dies in active service while eligible for normal retirement~~ IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS TITLE THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE AND DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT; AND

(II) (A) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403; OR

(B) HAS NOT REACHED AGE FIFTY-FIVE WITH TWENTY-FIVE YEARS OF ACCUMULATED SERVICE AS A MEMBER AND IS A PARTICIPANT UNDER THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE OR UNDER A LOCAL MONEY PURCHASE PLAN.

(b) ONE OF THE FOLLOWING SURVIVOR BENEFITS SHALL BE PAID IF THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (1) ARE SATISFIED:

~~(a)~~ (I) When there is a surviving spouse and no dependent children, the monthly benefit shall be twenty-five percent of the monthly base salary paid to such member immediately preceding death plus one-half of one percent of such salary for each year of the member's active service in excess of twenty-five years, but such benefit shall not exceed thirty-five percent of such salary.

~~(b)~~ (II) When there is a surviving spouse and one dependent child, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(c)~~ (III) When there is a surviving spouse and two or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(d)~~ (IV) When there is no surviving spouse and three or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to each member immediately preceding death.

~~(e)~~ (V) When there is no surviving spouse and two dependent children, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(f)~~ (VI) When there is no surviving spouse and one dependent child, the monthly benefit shall be twenty-five percent of the monthly base salary paid to such member immediately preceding death.

(2) The board shall promulgate rules that specify standards and establish procedures for determining whether a member's death is the direct and proximate result of a personal injury sustained while performing official duties or an occupational disease arising out of and in the course of a member's employment and, in the case of a line-of-duty death, whether any of the exceptions specified in section 101 (h) (2) of the federal "Internal Revenue Code of 1986", 26 U.S.C. SEC. 101 (h) (2), as amended, are applicable. The procedures established by the board may include the appointment of hearing officers to conduct hearings AND MAKE FINDINGS AND RECOMMENDATIONS TO THE BOARD ON ANY ISSUE. THE BOARD MAY ADOPT RULES TO ESTABLISH A PROCESS FOR THE ADMINISTRATIVE APPROVAL OF A DEATH BENEFIT APPLICATION, INCLUDING STANDARDS OF REVIEW OF APPLICATIONS, WITHOUT BOARD REVIEW. THE BOARD SHALL TAKE ANY FINAL ACTION THAT CONSTITUTES A DENIAL OF A DISABILITY APPLICATION OR A REDUCTION OF A BENEFIT.

SECTION 31-31-809, Colorado Revised Statutes, is amended to read:

31-31-809. Termination of benefits. Except as otherwise provided in section 31-31-807 (2), any benefit provided in accordance with this part 8 to a surviving spouse or dependent child shall terminate upon the death or remarriage of the surviving spouse and upon the death OF ANY DEPENDENT CHILD, THE marriage OF A DEPENDENT CHILD WHO IS NOT SO MENTALLY OR PHYSICALLY INCAPACITATED THAT THE CHILD CANNOT PROVIDE FOR THE

CHILD'S OWN CARE, or THE termination of dependency of any dependent child.

SECTION 31-31-811 (2) (b) (II) and (4), Colorado Revised Statutes, are amended, and the said 31-31-811 (2) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

31-31-811. State funding of death and disability. (2) (b) (II) Following the submittal of the annual actuarial valuation report dated January ~~1~~, 1995, AND CONTINUING THROUGH THE SUBMITTAL OF THE REPORT DATED JANUARY 1, 1999, the board shall ~~thereafter~~ submit biennial actuarial valuation reports for the purposes described in ~~section 31-31-811 (4)~~ SUBSECTION (4) OF THIS SECTION.

(III) BY SEPTEMBER 30, 2001, AND BY EACH SEPTEMBER 30 THEREAFTER, THE BOARD SHALL SUBMIT AN ANNUAL ACTUARIAL VALUATION REPORT DATED JANUARY 1 OF THE YEAR IN WHICH THE REPORT IS SUBMITTED FOR THE PURPOSES DESCRIBED IN SUBSECTION (4) OF THIS SECTION.

(4) For each member hired on or after January 1, 1997, who is eligible for the death and disability coverage provided by this part 8, a contribution shall be made to the death and disability account in the fund for the years 1997 and 1998 in an amount not greater than two and four tenths percent of the member's salary. Thereafter, the board, based on ~~a biennial~~ AN ANNUAL actuarial valuation, may adjust the contribution rate every two years, but in no event may the adjustment for any two-year period exceed one-tenth of one percent of the member's salary. Any employer and any local pension board or authority shall provide such information as may be required by the board in order to complete the ~~biennial~~ ANNUAL actuarial valuations. The actuary appointed by the board may utilize either the entry age-normal cost method or the aggregate cost method for purposes of the study required by this subsection (4). Any unfunded accrued liability shall be funded over a period not to exceed thirty years. The actuarial study shall not include any consideration of a cost of living adjustment to benefits awarded to members who are occupationally disabled. Payments shall be made by the employer and are due no later than ten days following the date of payment of salary to the member, unless the salary is paid more than once monthly, in which event such payments are due no later than the tenth day of the month following the month the salary is paid to the member. An interest charge of one-half of one percent per month shall be levied against any unpaid amount and shall be the responsibility of the employer. Any decision regarding whether the contribution required by this subsection (4) shall be assessed against the employer or the member, or shall in some manner be assessed jointly against the employer and the member, will be made at the local level utilizing the usual process for determining employee benefits. If it is not already part of the usual process for determining employee benefits, the employer shall confer with the employees or their representative prior to making a determination on how the contribution will be assessed.

SECTION 31-31-901 (1), (2), (3), and (8), Colorado Revised Statutes, are amended to read:

31-31-901. Deferred compensation plan - definitions. (1) Upon the request of any employer, the board may administer and amend or provide for the administration and amendment of any deferred compensation plan adopted by such employer for members OR OTHER EMPLOYEES WHO PROVIDE DIRECT SUPPORT TO THE EMPLOYER'S PUBLIC SAFETY DEPARTMENT.

(2) In order to assist employers in establishing a deferred compensation plan, the board may develop, maintain, and amend a master

deferred compensation plan document that is intended to comply with the provisions of section 457 of the "Internal Revenue Code of 1986", 26 U.S.C. SEC. 457, as amended. Any employer may adopt such master plan for its ~~members~~ PARTICIPANTS with the assistance of the board; however, such employer shall be responsible for ensuring that such master plan is in compliance with applicable law. PARTICIPATION BY NONMEMBER EMPLOYEES SHALL BE SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF SAID SECTION 457 OF THE "INTERNAL REVENUE CODE OF 1986", AND THE REGULATIONS PROMULGATED UNDER SECTION 457.

(3) There is hereby created the fire and police members' deferred compensation fund, which shall consist of the assets of deferred compensation plans administered by the board pursuant to the provisions of this section. The board shall be the trustee of the fund and shall keep a separate account of the assets of each deferred compensation plan held within the fund. The assets of each deferred compensation plan shall be held for the exclusive purpose of providing benefits to participants and beneficiaries and defraying reasonable expenses of the plan and any trust established to hold the assets of the plan. The board shall allow each ~~participating member~~ PARTICIPANT to exercise control over the investment of the ~~member's~~ PARTICIPANT'S assets in a plan. In allowing a ~~member~~ PARTICIPANT to exercise such control, the board shall:

(a) Select at least three investment alternatives, each of which is diversified in itself, that allow the ~~member~~ PARTICIPANT a broad range of investments and a meaningful choice between investment risk and return in the investment of the member's assets;

(b) Allow the ~~member~~ PARTICIPANT to change investments at least once each calendar quarter; and

(c) Provide the ~~member~~ PARTICIPANT with information describing the investment alternatives, the nature of such alternatives, investment performance, fees and expenses of investment alternatives, and other information to enable the ~~member~~ PARTICIPANT to make informed investment decisions.

(8) For the purposes of this section, unless the context otherwise requires:

(a) "Deferred compensation" means that income that a ~~member~~ PARTICIPANT may legally defer pursuant to current rulings of the internal revenue service and that, while invested under a deferred compensation plan adopted pursuant to this section, is exempt from federal income taxes on both the employer's contribution and all interest, dividends, and capital gains until the ultimate distribution to the ~~member~~ PARTICIPANT.

(b) "PARTICIPANT" MEANS:

(I) A MEMBER EMPLOYED BY AN EMPLOYER WHO HAS REQUESTED THE BOARD, PURSUANT TO SUBSECTION (1) OF THIS SECTION, TO ADMINISTER AND AMEND OR PROVIDE FOR THE ADMINISTRATION AND AMENDMENT OF ANY DEFERRED COMPENSATION PLAN ADOPTED BY THE EMPLOYER; OR

(II) AN EMPLOYEE WHO PROVIDES DIRECT SUPPORT TO THE PUBLIC SAFETY DEPARTMENT OF AN EMPLOYER WHO HAS REQUESTED THE BOARD, PURSUANT TO SUBSECTION (1) OF THIS SECTION, TO ADMINISTER AND AMEND OR PROVIDE FOR THE ADMINISTRATION AND AMENDMENT OF ANY DEFERRED COMPENSATION PLAN ADOPTED BY THE EMPLOYER.

SECTION Effective date. This act shall take effect June 1, 2001.

SECTION Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill A

Colorado Legislative Council Staff

NO FISCAL IMPACT

Drafting Number:	LLS 01-0105	**Date:**	October 6, 2000
Prime Sponsor(s):	Rep. Mace Sen. Andrews	**Bill Status:**	Police Officers' and Firefighters' Pension Reform Commission
		Fiscal Analyst:	Steve Tammeus (303-866-2756)

TITLE: CONCERNING REVISIONS TO THE LAWS GOVERNING NEW HIRE FIRE AND POLICE PENSION PLANS.

Summary of Legislation

This bill makes revisions to provisions of law governing fire and police pension plans. It amends the definition of employer to include "fire authority", and authorizes the Fire and Police Pension Association (FPPA) board of directors to release the names and addresses of retirees of a plan affiliated with the FPPA to the local pension board.

The bill makes the following changes to the Statewide Defined Benefit Plan:

- eliminates certain eligibility restrictions and clarifies that a member is eligible for a normal retirement pension at age 55 with 25 years of service;
- changes the method by which early retirement benefits are reduced to reflect early receipt of benefits;
- allows a member's designated beneficiary to receive a pension in the event the member dies before electing a payment option;
- clarifies that a pension election is irrevocable upon deposit or other negotiation of a pension payment;
- authorizes the board to promulgate rules to allow eligible members to defer receipt of retirement benefits in accordance with federal law;

- clarifies how earnings accruing on a member's separate account are to be allocated; and
- specifies how the funds on a member's separate account to be paid to the member's estate.

The bill revises the effective dates by which the employer may make withdrawals from the Statewide Defined Benefit Plan to the Statewide Money Purchase Plan, for obtaining member approval, and for the updating of actuarial reports when required by board rules.

The bill allows an employer with multiple plans to exercise its options to affiliate with or withdraw from the FPPA on an individual plan basis.

The bill revises disability and survivor benefits, as follows:

- amends the definition of dependent child to include any unmarried child under the age of 23 and enrolled in high school, or any mentally or physically disabled child regardless of marital status;
- with certain restrictions, precludes the contribution toward the death and disability plan and the payment of disability or survivor benefits;
- authorizes the board to establish an administrative process for determining a claim for a death or disability benefit;
- eliminates earned income offsets and reporting requirements for disability recipients for income earned after the recipient attains 55 years of age; and
- requires the board to submit annual rather than biennial actuarial reports to the State Auditor and legislative committees.

The bill allows employees who provide direct support to the employer's public safety department to participate in the deferred compensation plan adopted by the employer. Participation by non-member employees is to be subject to section 457 of the Internal Revenue Code. The bill will become effective June 1, 2001.

This bill will not affect state or local government revenues or expenditures. Certain sections of the bill may slightly affect the amount of benefits paid by the plan, the number of beneficiaries eligible to receive plan benefits, or plan administration costs. The impact of these changes are anticipated to be minimal and will not affect the actuarial soundness of the plans. This bill is assessed as having no fiscal impact.

Departments Contacted

Local Affairs | Fire and Police Pension Association

Bill B

HOUSE SPONSORSHIP

Plant, Alexander, Mace, Miller, Ragsdale, Scott, and Smith

SENATE SPONSORSHIP

Andrews

A BILL FOR AN ACT

CONCERNING SURVIVOR BENEFITS FOR CERTAIN SURVIVORS OF MEMBERS OF THE STATEWIDE DEATH AND DISABILITY PENSION PLAN FOR POLICE OFFICERS AND FIREFIGHTERS UPON THE DEATH OF A MEMBER IN ACTIVE SERVICE WHO IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Police Officers' and Firefighters' Pension Reform Commission. Increases the survivor benefits for certain survivors of members of the statewide death and disability pension plan for police officers and firefighters if the member dies while in active service and is not eligible for a normal retirement pension as follows:

- increases the survivor benefit for a spouse with no dependent children from an amount not to exceed 35% to 40% of the monthly base salary paid to the member immediately preceding death;
- increases the survivor benefit for one dependent child when there is no surviving spouse from 25% to 40% of the monthly base salary paid to the member immediately preceding death; and
- gives surviving spouses and dependent children who are receiving such a benefit prior to January 1, 2002, the increased amount of such benefit.

Requires the division of the survivor benefit in the event that a surviving spouse and a dependent child residing in a separate household from the surviving spouse must share the benefit. Specifies the division of the survivor benefit in the event that 2 or more surviving children who reside in separate households from each other must share the benefit.

States that the survivor benefits shall terminate upon the death of a surviving spouse or upon the death or termination of dependency of a dependent child.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 31-31-807 (1) and (2), Colorado Revised Statutes, are amended, and the said 31-31-807 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

31-31-807. Death of member - survivor benefits. (1) (a) If a member ~~who is not eligible for the normal retirement pension described in section 31-31-403~~ dies while in active service and leaves a surviving spouse or dependent children, or both, one of the ~~following~~ survivor benefits DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) shall be paid ~~unless the member is eligible for a normal retirement pension under an old hire pension plan established pursuant to article 30.5 of this title that provides for postretirement~~

~~survivor benefits to a spouse and dependent children in the event the member dies in active service while eligible for normal retirement~~ IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION PLAN ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS TITLE THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE AND DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT; AND

(II) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403.

(b) ONE OF THE FOLLOWING SURVIVOR BENEFITS SHALL BE PAID IF THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (1) ARE SATISFIED:

~~(a)~~ (I) When there is a surviving spouse and no dependent children, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death. ~~Plus one-half of one percent of such salary for each year of the member's active service in excess of twenty-five years, but such benefit shall not exceed thirty-five percent of such salary.~~

~~(b)~~ (II) When there is a surviving spouse and one dependent child, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(c)~~ (III) When there is a surviving spouse and two or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(d)~~ (IV) When there is no surviving spouse and three or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(e)~~ (V) When there is no surviving spouse and two dependent children, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(f)~~ (VI) When there is no surviving spouse and one dependent child, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death.

(2) Any benefit provided in accordance with this section to the surviving spouse or dependent child of a member who dies while in active service shall terminate upon the death of the surviving spouse or upon the death ~~marriage,~~ or termination of dependency of such dependent child, as defined in section 31-31-801 (2), as applicable.

(3) (a) WHEN THERE IS A SURVIVING SPOUSE AND ONE DEPENDENT CHILD RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY

BASE SALARY AND THE CHILD SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(b) WHEN THERE IS A SURVIVING SPOUSE AND TWO OR MORE DEPENDENT CHILDREN RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILDREN SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION.

(c) UPON THE TERMINATION OF THE BENEFIT PAYABLE TO THE CHILD OR CHILDREN PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (3), THE SURVIVING SPOUSE SHALL RECEIVE THE BENEFIT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION.

(4) IN THE EVENT THAT A SURVIVOR BENEFIT IS PAYABLE FOR THE BENEFIT OF MORE THAN ONE DEPENDENT CHILD OF THE MEMBER PURSUANT TO PARAGRAPH (c), (d), OR (e) OF SUBSECTION (1) OF THIS SECTION AND THE DEPENDENT CHILDREN RESIDE IN SEPARATE HOUSEHOLDS FROM EACH OTHER, THE BENEFIT SHALL BE DIVIDED EQUALLY AMONG THE CHILDREN.

(5) ANY SURVIVING SPOUSE OR DEPENDENT CHILD RECEIVING BENEFITS PURSUANT TO PARAGRAPH (a) OR (f) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JANUARY 1, 2002, SHALL RECEIVE ANY INCREASED BENEFIT ESTABLISHED IN PARAGRAPH (a) OR (f) OF SUBSECTION (1) OF THIS SECTION ON THE EFFECTIVE DATE OF THIS ACT, AS APPLICABLE.

SECTION 31-31-807.5 (1), Colorado Revised Statutes, is amended, and the said 31-31-807.5 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

31-31-807.5. Death of member - line-of-duty - survivor benefits. (1) (a) If a member ~~who is not eligible for the normal retirement pension described in section 31-31-403~~ dies while in active service as the direct and proximate result of a personal injury sustained while performing official duties or as a result of an occupational disease arising out of and in the course of the member's employment and leaves a surviving spouse or dependent children, or both, one of the ~~following~~ survivor benefits DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) shall be paid ~~unless the member is eligible for a normal retirement pension under an old hire pension established pursuant to article 30.5 of this title that provides for postretirement survivor benefits to a spouse and dependent children in the event the member dies in active service while eligible for normal retirement~~ IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS TITLE THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE AND

DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT; AND

(II) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403.

(b) ONE OF THE FOLLOWING SURVIVOR BENEFITS SHALL BE PAID IF THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (1) ARE SATISFIED:

~~(a)~~ (I) When there is a surviving spouse and no dependent children, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death. ~~Plus one-half of one percent of such salary for each year of the member's active service in excess of twenty-five years, but such benefit shall not exceed thirty-five percent of such salary.~~

~~(b)~~ (II) When there is a surviving spouse and one dependent child, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(c)~~ (III) When there is a surviving spouse and two or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(d)~~ (IV) When there is no surviving spouse and three or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to each member immediately preceding death.

~~(e)~~ (V) When there is no surviving spouse and two dependent children, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(f)~~ (VI) When there is no surviving spouse and one dependent child, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death.

(4) ANY BENEFIT PROVIDED IN ACCORDANCE WITH THIS SECTION TO THE SURVIVING SPOUSE OR DEPENDENT CHILD OF A MEMBER WHO DIES WHILE IN ACTIVE SERVICE SHALL TERMINATE UPON THE DEATH OF THE SURVIVING SPOUSE OR UPON THE DEATH OR TERMINATION OF DEPENDENCY OF THE DEPENDENT CHILD, AS DEFINED IN SECTION 31-31-801 (2), AS APPLICABLE.

(5) (a) WHEN THERE IS A SURVIVING SPOUSE AND ONE DEPENDENT CHILD RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILD SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(b) WHEN THERE IS A SURVIVING SPOUSE AND TWO OR MORE DEPENDENT CHILDREN RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILDREN SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION.

(c) UPON THE TERMINATION OF THE BENEFIT PAYABLE TO THE CHILD OR CHILDREN PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (5), THE SURVIVING SPOUSE SHALL RECEIVE THE BENEFIT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION.

(6) IN THE EVENT THAT A SURVIVOR BENEFIT IS PAYABLE FOR THE BENEFIT OF MORE THAN ONE DEPENDENT CHILD OF THE MEMBER PURSUANT TO PARAGRAPH (c), (d), OR (e) OF SUBSECTION (1) OF THIS SECTION AND THE DEPENDENT CHILDREN RESIDE IN SEPARATE HOUSEHOLDS FROM EACH OTHER, THE BENEFIT SHALL BE DIVIDED EQUALLY AMONG THE CHILDREN.

(7) ANY SURVIVING SPOUSE OR DEPENDENT CHILD RECEIVING BENEFITS PURSUANT TO PARAGRAPH (a) OR (f) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JANUARY 1, 2002, SHALL RECEIVE ANY INCREASED BENEFIT ESTABLISHED IN PARAGRAPH (a) OR (f) OF SUBSECTION (1) OF THIS SECTION ON THE EFFECTIVE DATE OF THIS ACT, AS APPLICABLE.

SECTION Effective date. this act shall take effect January 1, 2002, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article v, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall take effect on the specified date only if approved by the people.

DRAFT

Bill B

Colorado Legislative Council Staff

STATUTORY PUBLIC ENTITY FISCAL IMPACT

No State General Fund Impact

Drafting Number:	LLS 01-0106	**Date:**	October 6, 2000
Prime Sponsor(s):	Rep. Plant Sen. Andrews	**Bill Status:**	Police Officers' and Firefighters' Pension Reform Commission
		Fiscal Analyst:	Steve Tammeus (303-866-2756)

TITLE: CONCERNING SURVIVOR BENEFITS FOR CERTAIN BENEFICIARIES OF MEMBERS OF NEW HIRE POLICE OFFICERS' AND FIREFIGHTERS' PENSION PLANS UPON THE DEATH OF A MEMBER IN ACTIVE SERVICE WHO IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION.

Fiscal Impact Summary	FY 2001/02	FY 2002/03
State Revenues		
General Fund		
State Expenditures		
General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None		
Effective Date: January 1, 2002, unless a referendum petition is filed.		
Appropriation Summary for FY 2000-2001: None		
Local Government Impact: None		

Summary of Legislation

This bill revises the benefits for certain survivors of members of the Statewide Death and Disability Pension Plan for police officers and firefighters if the member dies while in active service and is not eligible for a normal retirement pension, as follows:

- increases the benefit for a spouse with no dependent children from an amount not to exceed 35 percent to 40 percent of the member's monthly base salary;
- increases the survivor benefit for one dependent child when there is no surviving spouse from 25 percent to 40 percent of the member's monthly base salary; and
- gives surviving spouses and dependent children who are receiving such a benefit prior to January 1, 2002, the increased amount of the benefit.

The bill also:

- requires the division of the survivor benefit in the event a surviving spouse and a dependent child residing in a separate household must share the benefit;
- specifies the division of the survivor benefit in the event that two or more surviving children who reside in separate household must share the benefit; and
- states that the survivor benefits shall terminate upon the death of a surviving spouse or upon the death or termination of dependency of a dependent child.

State Impact

This bill will not affect state revenues or expenditures.

Local Government Impact

This bill will not affect local government revenues or expenditures.

Fire and Police Pension Association Impact

This bill is estimated to increase the amount of Statewide Death and Disability Pension Plan benefit payments by approximately $12,000,000 over the life of the plan. These benefits would be paid out of funds currently allocated to future discretionary cost of living allowance (COLA) increases for recipients of occupational disability benefits. Since the plan is fully funded, the cost of these additional benefits will not affect the current plan contribution rates or the actuarial soundness of the plan.

State Appropriations

No new state appropriations will be required for FY 2001-02.

Departments Contacted

Local Affairs Fire and Police Pension Association

Bill C

HOUSE SPONSORSHIP

Scott, Smith, Alexander, Miller, Ragsdale, Mace, and Plant

A BILL FOR AN ACT

CONCERNING CALCULATIONS OF THE CONTRIBUTIONS NECESSARY TO ELIMINATE THE UNFUNDED LIABILITY OF STATE-ASSISTED OLD HIRE POLICE OFFICERS' AND FIREFIGHTERS' PENSION PLANS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Police Officers' and Firefighters' Pension Reform Commission. By September 30, 2001, requires any employer desiring to receive state assistance contributions to assist in amortizing unfunded accrued liability to file with the fire and police pension association an updated actuarial study of its old hire police officers' and firefighters' pension funds on an annual rather than biennial basis.

By September 30, 2001, requires the fire and police pension association board of directors to submit an annual, rather than biennial, report to the joint budget committee or pension reform commission reviewing the status of all employers having an accrued unfunded liability.

Directs the fire and police pension association board of directors to determine annually whether the sum of the required state and employer contributions to any state-assisted old hire pension plan for that year is greater than the amount necessary to eliminate the remaining unfunded liability of the plan. Requires the state and the employer to reduce their required contributions to a state-assisted old hire pension plan when the sum of the required contributions for that year would be greater than the amount necessary to eliminate any remaining unfunded liability of the plan.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 31-30.5-306 (1) (b), Colorado Revised Statutes, is amended to read:

31-30.5-306. Actuarial studies. (1) (b) (I) An updated actuarial study shall be filed WITH THE ASSOCIATION not later than July 1, 1984, and every two years thereafter, UNTIL JULY 1, 2000.

(II) BY SEPTEMBER 30, 2001, AND BY SEPTEMBER 30 OF EACH YEAR THEREAFTER, UNTIL SEPTEMBER 30, 2009, OR UNTIL ALL STATE ASSISTED OLD HIRE PENSION PLANS ARE FULLY FUNDED, WHICHEVER COMES FIRST, AN UPDATED ACTUARIAL STUDY SHALL BE FILED WITH THE ASSOCIATION.

SECTION 31-30.5-307 (1) (d), Colorado Revised Statutes, is amended, and the said 31-30.5-307 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-30.5-307. State contribution. (1) (d) (I) Commencing December 1, 1992, AND UNTIL DECEMBER 1, 2000, the board shall submit a biennial report to the joint budget committee reporting on each employer having an accrued unfunded liability and the amount of such accrued unfunded liability.

(II) BY SEPTEMBER 30, 2001, AND BY SEPTEMBER 30 OF EACH YEAR THEREAFTER, THE BOARD SHALL SUBMIT AN ANNUAL REPORT DATED JANUARY 1 OF THE YEAR IN WHICH THE REPORT IS SUBMITTED, TO THE JOINT BUDGET COMMITTEE OR THE COMMISSION REPORTING ON EACH EMPLOYER HAVING AN ACCRUED UNFUNDED LIABILITY AND THE AMOUNT OF THE EMPLOYER'S ACCRUED UNFUNDED LIABILITY.

(4) BY OCTOBER 1, 2001, AND BY OCTOBER 1 OF EACH YEAR THEREAFTER, UNTIL OCTOBER 1, 2009, OR UNTIL ALL STATE ASSISTED OLD HIRE PENSION PLANS ARE FULLY FUNDED, WHICHEVER COMES FIRST, THE BOARD SHALL DETERMINE FOR EVERY STATE-ASSISTED OLD HIRE PENSION PLAN

WHETHER THE SUM OF THE REQUIRED STATE AND EMPLOYER CONTRIBUTIONS FOR THE CURRENT YEAR IS GREATER THAN THE AMOUNT NECESSARY TO ELIMINATE THE REMAINING UNFUNDED LIABILITY OF THE PLAN. THE BOARD'S DETERMINATION SHALL BE BASED ON THE PREVIOUS YEAR'S ACTUARIAL STUDIES PERFORMED PURSUANT TO SECTION 31-30.5-306 AND THE SUM OF THE PREVIOUS YEAR'S STATE AND EMPLOYER CONTRIBUTIONS. IF THE BOARD DETERMINES THAT THE SUM OF THE REQUIRED CONTRIBUTIONS FOR THE CURRENT YEAR IS GREATER THAN THE AMOUNT OF REMAINING UNFUNDED LIABILITY OF THE PLAN, THEN BOTH THE REQUIRED STATE AND EMPLOYER CONTRIBUTIONS TO THAT PLAN SHALL BE IN AN AMOUNT PROPORTIONATE TO THE AMOUNT RESPECTIVELY CONTRIBUTED IN THE PREVIOUS YEAR SO THAT THE SUM OF THE TWO CONTRIBUTIONS IS EQUAL TO AN AMOUNT THAT ELIMINATES ANY REMAINING UNFUNDED LIABILITY.

SECTION Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

DRAFT

Bill C

Colorado Legislative Council Staff

NO FISCAL IMPACT

Drafting Number:	LLS 01-0107	**Date:**	October 6, 2000
Prime Sponsor(s):	Rep. Scott	**Bill Status:**	Police Officers' and Firefighters' Pension Reform Commission
		Fiscal Analyst:	Steve Tammeus (303-866-2756)

TITLE: CONCERNING STATE ASSISTED OLD HIRE POLICE OFFICERS' AND FIREFIGHTERS' PENSION PLANS, AND, IN CONNECTION THEREWITH, REQUIRING ANNUAL ACTUARIAL STUDIES AND ACCRUED UNFUNDED LIABILITY REPORTS, AND SPECIFYING WHEN THE STATE AND EMPLOYERS SHALL PRORATE THEIR PLAN CONTRIBUTIONS.

Summary of Assessment

This bill requires all state assisted old hire pension plans to submit an updated actuarial study to the Fire and Police Pension Association (FPPA) by September 30, 2001 and until 2009, or until those plans are fully funded. The bill also requires the FPPA board to submit an annual report to the Joint Budget Committee or the Police Officer's and Firefighters' Pension Reform Commission on each employer having an accrued unfunded liability.

The bill requires that by October 1, 2001 and until 2009, or until all state assisted old hire pension funds are fully funded, the FPPA board shall determine whether the sum of the required state and employer contributions for the current year is greater than the amount necessary to eliminate the remaining unfunded liability of the plan. In that event, the bill specifies a manner in which the board must adjust those contributions to eliminate any unfunded liability. The bill will become effective 90 days after adjournment unless a referendum petition is filed.

This bill will not affect state or local government revenues or expenditures. The FPPA may incur additional administrative costs to conduct annual actuarial studies, however, those costs are anticipated to be minimal. The bill will not affect plan benefits, plan contribution rates, or the actuarial soundness of the plan. Therefore, this bill is assessed as having no fiscal impact.

Departments Contacted

Local Affairs   Fire and Police Pension Association