0549 Police Officers' and Firefighters' Pension Reform Commission

Colorado Legislative Council

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RECOMMENDATIONS FOR 2006

POLICE OFFICERS' AND FIREFIGHTERS' PENSION REFORM COMMISSION

Report to the Colorado General Assembly

Research Publication No. 549 December 2005
December 2005

To Members of the Sixty-fifth General Assembly:

Submitted herewith is the final report of the Police Officers' and Firefighters' Pension Reform Commission. This commission was created pursuant to Section 31-31-1001, C.R.S. The purpose of the commission is to oversee legislation relating to the funding of police and fire pensions and the benefit designs of such plans.

At its meeting on November 15, 2005, the Legislative Council reviewed the report of this commission. A motion to forward this report and the bills therein for consideration in the 2006 session was approved.

Respectfully submitted,

/s/ Senator Joan Fitz-Gerald
Chairman
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[www.state.co.us/gov_dir/leg_dir/lcstaff/2005/05interim.htm]
# RECOMMENDED BILLS AND FISCAL NOTES

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POLICE OFFICERS' AND FIREFIGHTERS' PENSION REFORM COMMISSION

Members of the Commission

Representative Michael Cerbo
Chair
Senator Lois Tochtrop
Vice-Chair
Representative Bill Berens
Representative Gary Lindstrom
Representative Larry Liston
Representative Bob McCluskey
Representative Anne McGihon
Representative Joshua Penry
Representative Ann Ragsdale
Representative Jim Riesberg
Representative Val Vigil

Senator Lewis H. Entz
Senator Dan Grossman
Senator Jack Taylor
Senator Suzanne Williams

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Gregg Fraser
Senior Attorney
Nicole Hoffman
Senior Staff Attorney

Ed DeCecco
Staff Attorney
The Fire and Police Pension Association (FPPA) was established in 1980 and administers a statewide multiple employer public employee retirement system providing defined benefit plan coverage as well as death and disability coverage for police officers and firefighters throughout the state of Colorado. Pursuant to Section 31-31-1001, C.R.S., the Police Officers' and Firefighters' Pension Reform Commission has the responsibility to study and develop proposed legislation relating to funding police officers' and firefighters' pensions in this state and the benefit designs of such pension plans. The statute directs the commission to study, review, and propose legislation regarding the following, among other subjects:

- normal retirement age and compulsory retirement;
- payment of benefits prior to normal retirement age;
- service requirements for eligibility;
- rate of accrual of benefits;
- disability benefits;
- survivors' benefits;
- vesting of benefits;
- employee contributions;
- post-retirement increases;
- creation of an administrative board;
- creation of a consolidated statewide system;
- distribution of state funds;
- coordination of benefits with other programs; or
- the volunteer firefighter pension system.
The commission met once during the 2005 interim and heard testimony from staff and representatives of the Fire and Police Pension Association (FPPA). The commission received an historical overview of the association including summaries of each type of plan available to members, and an explanation of the funding methods for each plan. Association staff provided updated information regarding the association's investment programs and explained the asset allocation and fund performance of FPPA plans. The FPPA currently controls in excess of $2.88 billion in assets. A representative of the FPPA provided an overview of three bills that were considered by the FPPA Board of Directors and recommended to the commission for introduction. The bills create new retirement options for certain FPPA members, ensure compliance with federal regulations, and simplify financial reporting requirements of the FPPA.

Improved Social Security Supplemental Plan

The FPPA has an existing social security supplemental plan that is currently used by a few municipal employers in Colorado whose employees participate in social security. These employers joined FPPA's social security supplemental plan as a way to augment the future retirement benefits that their employees will receive from social security. The existing plan has a very small enrollment, only about 60 members are currently enrolled, relative to the more than 11,000 FPPA members participating in all FPPA plans.

The structure of the existing social security supplemental plan links an employee's future retirement benefit to the retiree's future social security benefit. The FPPA believes that this structure makes it difficult to predict what benefits an employee will receive at retirement to supplement his or her social security income. Bill A replaces the existing social security supplemental plan with a social security supplemental plan offering more predictable benefits.

Under the proposed replacement plan, a participant would contribute one-half of the normal contribution rates to the FPPA Statewide Defined Benefit Plan, and would receive one-half of the normal benefit at retirement. The plan would no longer be tied to the employee's social security benefit. Participants in FPPA's Statewide Defined Benefit Plan currently contribute 8 percent of their salary, and the employer contributes 8 percent for a total contribution of 16 percent of salary. Participants in the new social security supplemental plan would contribute 4 percent of their salary, and the employer would contribute 4 percent. The predictable nature of benefits under the new social security plan (relative to the old plan) will facilitate decision making on the part of local government employers that are considering joining the plan.

Participation in the proposed plan would be completely voluntary for local governments. It is expected that some Colorado counties will use the new social security supplemental plan to improve retirement benefits for law enforcement officers employed by county sheriff's departments.
According to the FPPA, the new plan will be simpler and less expensive to administer. Members enrolled in the existing social security supplemental plan would receive a combination of benefits at retirement, a portion from the old plan and a portion from the new plan. Contribution rates and benefits under the new plan would be unaffected by any future changes that might be made to Social Security. Any additional police officer and firefighter retirement benefit costs to local governments will be optional since participation in the new social security supplemental plan by local governments is voluntary under the bill.

**Structure of Trust Funds and Investment Funds in the Administration of FPPA Assets**

Historically, funds that have been held by the FPPA were invested by the FPPA. However, over time options have been created which permit FPPA members to make choices regarding the investment of accounts which are held by the FPPA. Most of the monies held by the FPPA are still invested by the FPPA, however a portion (about 5 percent) are "self-directed assets"—funds which are invested by the individual members. The FPPA proposes to modify the structure of its trust funds to simplify and clarify reporting and administration of its plans, including these self-directed assets. This would ensure that all of the FPPA's statewide plans are in compliance with IRS codes. The structure change has no impact on FPPA member benefits.

Bill B makes the statutory amendments that are necessary to align the FPPA defined benefit system with current IRS requirements and separates assets under the FPPA's control into trust funds and investment funds in order to simplify financial reporting.

**Partial Entry Into the Fire and Police Pension Association Defined Benefit System by members of Money Purchase Plans**

Some FPPA employers have opted to participate in money purchase pension plans for their employees in lieu of coverage under the FPPA Statewide Defined Benefit Plan. A money purchase plan is a defined contribution pension plan that maintains individual employee accounts. Under a money purchase plan, contribution rates are fixed and are calculated as a percentage of the employee's compensation. Benefit levels are determined by the amount of money available in the account at retirement.

Some Colorado local governments with firefighters and police who currently participate in money purchase plans have expressed an interest in joining the FPPA's Statewide Defined Benefit Plan or the Statewide "Hybrid Plan." The Statewide Hybrid Plan offers both defined benefit and money purchase components.

Current law permits members of local plans to affiliate with the FPPA upon the affirmative vote of 65 percent of the members of the local plan. However, situations have occurred in which a significant part of the membership of a local plan wishes to affiliate with the FPPA, but this number falls short of 65 percent.
Bill C changes the terms upon which individuals are allowed to affiliate with the FPPA. It allows local governments that employ firefighters and police officers, and currently provide a local plan for their retirement, to offer individual firefighters and police officers the option to affiliate with the FPPA or to remain with their local retirement plan. The bill maximizes the retirement choices available to current firefighters and police officers.

Under the bill, local governments offering this option to their police officers and firefighters would have to agree to continue their local plan in the future for those who choose to remain with the local plan. All firefighters and police officers hired by that local government in the future would be required to affiliate with the FPPA Statewide Defined Benefit Plan or Statewide Hybrid Plan. The FPPA believes that the bill will create options for FPPA employers, accommodating the individual circumstances of each employer.

Bill C does not require a vote of those participating in a local plan for a local government employer to offer this choice to its police officers and firefighters. Under the bill, each police officer or firefighter would have the individual choice of a defined benefit plan, a defined contribution plan, a hybrid plan, or staying in their current local plan. The bill will not affect state government revenue or expenditures. Any additional police officer and firefighter retirement benefit costs to local governments will be optional since participation in the FPPA Statewide Defined Benefit Plan or Statewide Hybrid Plan by local governments is voluntary under the bill.
RESOURCE MATERIALS

The resource materials listed below were provided to the commission during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver, (303-866-2055). Meeting summaries and materials developed by Legislative Council Staff are also available on our web site at:

www.state.co.us/gov_dir/leg_dir/lcsstaff/2005/05interim.htm

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Memoranda and Reports

A BILL FOR AN ACT

CONCERNING THE CREATION OF A SOCIAL SECURITY SUPPLEMENTAL PLAN BY THE BOARD OF DIRECTORS OF THE FIRE AND POLICE PENSION ASSOCIATION THAT WILL ALLOW EMPLOYERS THAT COVER EMPLOYEES UNDER THE FEDERAL "SOCIAL SECURITY ACT" TO PROVIDE A DEFINED BENEFIT RETIREMENT PLAN TO EMPLOYEES.

Bill Summary

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment. Capital letters indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
Police Officers' and Firefighters' Pension Reform Commission. For any employer that covers, under the federal "Social Security Act", employees who provide law enforcement or fire protection and that elects to affiliate with the fire and police pension association (association) for coverage under the statewide death and disability plan, specifies that the election of coverage under such plan is irrevocable.

Permits the board of directors of the association (board) to terminate the affiliation of an employer that has affiliated with the statewide defined benefit plan and to require the affiliated employer to participate in the supplemental social security plan created by the board. Specifies that the board shall provide notice to the employer and the members of the statewide defined benefit plan before the change in affiliation occurs.

Allows any employer that covers, under the federal "Social Security Act", employees who provide law enforcement or fire protection to elect coverage under the social security supplemental plan created by the board by filing a resolution with the board. Specifies that election of coverage under such plan is irrevocable. Specifies the requirements for approval of an employer's resolution to be covered under such plan.

Authorizes the board to develop, maintain, and amend a social security supplemental plan document that offers a defined benefit and that covers the employees of the employers that have elected coverage under the social security supplemental plan. Specifies how employer and employee contributions to the plan shall be made. Specifies that employees covered under the plan are eligible for individual separate retirement accounts.

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

SECTION 1. 31-31-405 (1), Colorado Revised Statutes, is amended to read:

31-31-405. Separate retirement account - creation - allocation. (1) For accounting purposes only, the stabilization reserve account created by section 31-31-301 (3) (a) (II) shall consist of individual separate retirement accounts established in the name of each member covered by the statewide defined benefit plan established by this part 4, except such members as are covered on a supplemental basis pursuant to section 31-31-704. Members covered on a supplemental basis pursuant to section 31-31-704.5 shall be eligible for
SECTION 2. 31-31-704 (2), Colorado Revised Statutes, is amended, and the said 31-31-704 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

INDIVIDUAL SEPARATE RETIREMENT ACCOUNTS.

31-31-704. Optional affiliation by social security employers.

(2) The board shall establish rules as to the procedure for affiliation pursuant to this section. An employer eligible for such affiliation may request of the board, prior to filing a resolution of affiliation, an estimate of the contribution rate necessary to comply with the contribution requirements established by this article. ELECTION OF COVERAGE UNDER THE DEATH AND DISABILITY PLAN SHALL BE IRREVOCABLE.

(9) The board may terminate the affiliation of an employer with the statewide defined benefit plan pursuant to this section and require the affiliated employer to participate in the social security supplemental plan established pursuant to section 31-31-704.6. The board shall provide written notice of the change in affiliation to the employer and to members at least one hundred eighty days prior to the change in affiliation.

SECTION 3. Part 7 of article 31 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

31-31-704.5. Entry into the social security supplemental plan.

(1) (a) Notwithstanding the exemption provided in section 31-31-401 (1) (a), any employer that covers members under the federal "Social Security Act", as amended, or any county that covers salaried employees under the federal "Social Security Act", as amended, whose duties are directly involved with the provision of law enforcement or fire protection as certified by
THE COUNTY MAY ELECT COVERAGE UNDER THE SOCIAL SECURITY
SUPPLEMENTAL PLAN ESTABLISHED PURSUANT TO SECTION 31-31-704.6 BY
FILING A RESOLUTION OF AFFILIATION WITH THE BOARD PURSUANT TO
SUBSECTION (2) OF THIS SECTION. ELECTION OF COVERAGE UNDER THE
PLAN SHALL BE IRREVOCABLE.

(b) For purposes of administering to counties affiliated
pursuant to this section, any county electing to affiliate shall
be included in the definition of "employer", as defined in section
31-31-102 (3), and any covered employee of such county shall be
included in the definition of "member", as defined in section
31-31-102 (4).

(2) The employer's resolution applying for coverage
under the social security supplemental plan shall be adopted by
the governing body of the employer and shall state the
employer's intent to cover its members under the plan.

(3) Any application for coverage under the social
security supplemental plan shall be approved by at least
sixty-five percent of all active members employed by the
employer at the time of the application.

(4) The board shall promulgate rules relating to
standards for disclosure of all ramifications and procedures
for obtaining member approval pursuant to subsection (3) of this
section. The board shall also promulgate rules relating to
standards for granting an employer's application for
participation in the social security supplemental plan and for
the submission of information to the board by the employer. The
rules shall contain a provision specifying that an employer that
opts to participate in the plan shall not be permitted to opt out.
(5) An application for coverage under the social security supplemental plan filed by an employer shall include the employer's certification to the board:

(a) That all active fire and law enforcement employees as certified by the employer will become participants in the social security supplemental plan and the election to participate in the plan is irrevocable; and

(b) That the employer agrees to participate in the social security supplemental plan and to be bound by the terms of the plan and the decisions and actions of the board with respect to the plan.

31-31-704.6. Social security supplemental plan - creation - management. (1) The board is authorized to develop, maintain, and amend a social security supplemental plan document, as a component of the defined benefit system, that offers a defined benefit and that is intended to comply with the qualification requirements specified in section 401 of the federal "Internal Revenue Code of 1986", as amended, that are applicable to governmental plans. The plan shall cover the members of those employers that have elected coverage under the plan pursuant to section 31-31-704.5.

(2) (a) Contributions and earnings of the social security supplemental plan shall be held in trust as part of the defined benefit system trust fund.

(b) The social security supplemental plan document created by the board pursuant to subsection (1) of this section shall govern the accrual of service credit, vesting, the benefits
TO BE OFFERED BASED ON AGE AND SERVICE, THE ESTABLISHMENT AND
PAYMENT OF CONTRIBUTIONS, THE ALLOCATION OF CONTRIBUTIONS
TOWARDS FUNDING THE DEFINED BENEFIT, AMENDMENT OF THE PLAN, AND
SUCH OTHER MATTERS AS MAY BE NECESSARY TO THE BOARD'S
ADMINISTRATION AND MANAGEMENT OF THE PLAN.

(3) Upon the effective date of coverage under the Social
Security Supplemental Plan, each member covered by the Plan
shall pay four percent of his or her salary paid into the fund.
The payment shall be made by the employer by deduction from
the salary paid to the member. For each member, the employer
shall pay four percent of the salary paid to the member into the
defined benefit plan trust fund. Payments 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
the 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 added to the employer
payments required pursuant to this section.

(4) Each employer shall pay the employee contributions
required for all salaries, and the contributions so paid shall be
treated as employer contributions pursuant to section 414(h)(2)
of the federal "Internal Revenue Code of 1986", as amended, in
determining tax treatment under the Code. The employer shall
pay the employee contributions directly to the retirement
association, instead of paying the amounts to employees, and the
contributions shall be paid from the same funds that are used in
paying salaries to the employees. The contributions, although
DESIGNATED AS EMPLOYEE CONTRIBUTIONS, SHALL BE PAID BY THE
EMPLOYER IN LIEU OF CONTRIBUTIONS BY EMPLOYEES. EMPLOYEES MAY
NOT ELECT TO CHOOSE TO RECEIVE THE CONTRIBUTIONS DIRECTLY
INSTEAD OF HAVING THEM PAID BY THE EMPLOYER TO THE PENSION PLAN.
EMPLOYEE CONTRIBUTIONS SO PAID SHALL BE TREATED FOR ALL PURPOSES
OF THIS ARTICLE, OTHER THAN FEDERAL TAX, IN THE SAME MANNER AS
EMPLOYEE CONTRIBUTIONS MADE BEFORE THE DATE PAID. PAYMENT
SHALL BE MADE BY ONE VOUCHER FOR THE AGGREGATE AMOUNT
DEDUCTED AND SHALL BE MADE NO LATER THAN THE TENTH DAY AFTER
THE END OF EACH PAY PERIOD.

(5) BENEFITS PAYABLE UNDER THE SOCIAL SECURITY
SUPPLEMENTAL PLAN SHALL BE EQUIVALENT TO ONE HALF OF THE
BENEFITS PAID UNDER THE STATEWIDE DEFINED BENEFIT PLAN.

SECTION 4. 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.
CONCERNING THE CREATION OF A SOCIAL SECURITY SUPPLEMENTAL PLAN
BY THE BOARD OF DIRECTORS OF THE FIRE AND POLICE PENSION
ASSOCIATION THAT WILL ALLOW EMPLOYERS THAT COVER EMPLOYEES
UNDER THE FEDERAL "SOCIAL SECURITY ACT" TO PROVIDE A DEFINED
BENEFIT RETIREMENT PLAN TO EMPLOYEES.

State Revenues
General Fund

State Expenditures
General Fund

FTE Position Change
0.0 FTE

Effective Date:  Upon signature of the Governor.

Appropriation Summary for FY 2005/2006:  None required


Summary of Legislation

This bill authorizes the Fire and Police Pension Association (FPPA) to implement a new
Social Security Supplemental Plan for FPPA-affiliated departments that also participate in Social
Security.

Fire and Police Pension Association Impact

The bill authorizes the FPPA to establish a new supplemental retirement plan for firefighters
and police officers in departments that participate in Social Security. The FPPA already operates
a similar plan, although contribution rates for the existing plan can fluctuate annually. The new plan
is based on the 2006 rates for the existing plan: four percent each for employers and employees, or
one-half of the normal contribution rates for FPPA's defined benefit plan. Participants would be
Bill A

eligible for one-half of the normal FPPA retirement benefits. The cost of implementing the new plan, mainly staff time, would be paid from the FPPA's existing operating budget.

Local Government Impact

The bill allows for the establishment of a new FPPA retirement benefit for police officers and firefighters in departments that also participate in Social Security. Participation in the new program is voluntary. Departments that choose to participate will be responsible for paying the employer portion of any costs for covered employees.

Departments Contacted

   Fire and Police Pension Association          Labor and Employment
A BILL FOR AN ACT

CONCERNING THE STRUCTURE OF TRUST FUNDS AND INVESTMENT FUNDS IN THE ADMINISTRATION OF ASSETS FOR THE BENEFIT OF FIREFIGHTERS AND POLICE OFFICERS.

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. Specifies that moneys held in a volunteer firefighter
pension fund are held in trust for the exclusive use and benefit of
members and other beneficiaries.

Provides an exception for certain plans or funds to allow the use
or diversion of the corpus or income of the fund for assignments and writs
of garnishment relating to child support.

Establishes a defined benefit system consisting of specified plans
administered by the board of the fire and police pension association
(board). Specifies that the board may create plan documents for the plans
within the defined benefit system in conformance with the statutory
provisions for each plan. Relocates provisions requiring the defined
benefit system and certain plans within the system to meet specified
internal revenue code qualification requirements.

Creates the defined benefit system trust fund and specifies the
property and assets that constitute the fund. Specifies that all assets held
in connection with the defined benefit system shall be held in trust for the
exclusive benefit of members and beneficiaries under the plans. Provides
that the board is the trustee of the trust fund. Establishes certain accounts
and subaccounts within the trust fund with specified requirements.

Changes the name of the fire and police members' benefit fund to
the fire and police members' benefit investment fund, and modifies the
assets and accounts within the fund. Relocates existing provisions
governing specified accounts and subaccounts.

Creates the fire and police members' self-directed investment
fund, consisting of the portion of the assets that are designated for
self-direction by the member of specified plans.

Relocates and modifies provisions governing the control over the
investment of moneys in specified funds, investment alternatives,
disbursements from funds, allocation of earnings and losses, standards of
custom for providers of investment products, audit requirements, and
other administrative duties and functions related to the funds.

Modifies the names of specified existing funds to include the term
trust in the name of the funds.

Creates the old hire plan members' benefit trust fund consisting
of the assets of the old hire plans administered and managed by the board.
Requires the board to keep an accurate account of each individual old hire
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 31-30-1111 (2), Colorado Revised Statutes, is amended to read:

31-30-1111. Contribution to fund. (2) Fund moneys are HELD IN TRUST for the EXCLUSIVE use and benefit of the fire department members and retired fire department members and their surviving spouses, dependent children, dependent parents, and other beneficiaries in accordance with this part 11.

SECTION 2. 31-30-1133 (2) (b), Colorado Revised Statutes, is amended to read:

31-30-1133. Qualification requirements - internal revenue code. (2) Any volunteer firefighter pension plan established by this part 11 to provide retirement benefits for volunteer firefighters shall satisfy the qualification requirements specified in section 401 of the internal revenue code, as applicable to governmental plans. In order to meet those requirements, such plans are subject to the following provisions, notwithstanding any other provision of this part 11:

(b) No part of the corpus or income of the pension plan may be used for or diverted to any purpose other than that of providing benefits to participants and their beneficiaries and defraying reasonable expenses
of administering the pension plan, EXCEPT FOR AN ASSIGNMENT FOR CHILD
SUPPORT PURPOSES AS PROVIDED IN SECTIONS 14-10-118 (1) AND
14-14-107, C.R.S., AS THEY EXISTED PRIOR TO JULY 1, 1996, AND EXCEPT
FOR INCOME ASSIGNMENTS FOR CHILD SUPPORT PURPOSES PURSUANT TO
SECTION 14-14-111.5, C.R.S., AND A WRIT OF GARNISHMENT THAT IS THE
RESULT OF A JUDGMENT TAKEN FOR ARREARAGES FOR CHILD SUPPORT OR
FOR CHILD SUPPORT DEBT.

SECTION 3. 31-30.5-209 (1) and (2), Colorado Revised
Statutes, are amended to read:

31-30.5-209. Idle funds. (1) If the governing body of a
municipality, by resolution, finds that no person named in this article is,
and no such person can become, eligible for payment of a benefit from
the municipality's police officers' old hire pension fund established
pursuant to section 31-30.5-201 (2), it may authorize use of the money in
the fund to make contributions to the fire and police members' benefit
DEFINED BENEFIT SYSTEM TRUST fund pursuant to section 31-31-402 (2),
to make contributions to a police benefit fund established pursuant to
section 31-31-601 (1) (b), or to make contributions under the federal
social security laws if the municipality's police officers are covered by the
social security laws. To the extent that money in the fund exceeds three
times the present yearly employer contribution to any of the preceding
benefit funds on behalf of the municipality's current police officers, such
excess may be used for any law-enforcement-related purpose. If the
municipality does not employ any police officer, the governing body may
authorize use of the money in the fund for any law-enforcement-related
purpose. In addition, any money in the fund that is attributable to
contributions by the municipality and to interest on such contributions
may be used for any police-related purpose and, if no such police-related
need exists, then for any purpose as decided by the governing body of the municipality. For the purposes of this subsection (1), contracting with the county or county sheriff for law enforcement service shall not be considered employment of a police officer.

(2) If the governing body of a municipality, fire protection district, or county improvement district, by resolution, finds that no person named in this article is, and no such person can become, eligible for payment of a benefit from the employer's firefighters' old hire pension fund, it may authorize use of the money in the fund to make contributions to the fire and police members' benefit Defined Benefit System Trust fund pursuant to section 31-31-402 (2) or to make contributions under the federal social security laws if the employer's firefighters are covered by the social security laws. In addition, any money in the fund that is attributable to contributions by the municipality or district and to interest on such contributions may be used for any fire-related purpose and, if no such fire-related need exists, for any purpose as decided by the governing body of the municipality or district.

SECTION 4. 31-30.5-212 (2), Colorado Revised Statutes, is amended to read:

31-30.5-212. Qualification requirements - internal revenue code. (2) The old hire pension funds established by this article shall be held in trust for the benefit of old hire members and other persons entitled to benefits. No part of the corpus or income of the pension fund shall be used for or diverted to purposes other than for the exclusive benefit of old hire members or other persons entitled to benefits from the pension fund and for expenses incident to operation of the pension fund. No person shall have any interest in or right to any part of the corpus or earnings of
the pension trust except as expressly provided, INCLUDING ASSIGNMENTS
FOR CHILD SUPPORT PURPOSES AS PROVIDED FOR IN SECTIONS 14-10-118
(1) AND 14-14-107, C.R.S., AS THEY EXISTED PRIOR TO JULY 1, 1996,
INCOME ASSIGNMENTS FOR CHILD SUPPORT PURPOSES PURSUANT TO
SECTION 14-14-111.5, C.R.S., WRITS OF GARNISHMENT THAT ARE THE
RESULT OF A JUDGMENT TAKEN FOR ARREARAGES FOR CHILD SUPPORT OR
FOR CHILD SUPPORT DEBT, AND PAYMENTS MADE IN COMPLIANCE WITH A
PROPERLY EXECUTED COURT ORDER APPROVING A WRITTEN AGREEMENT
ENTERED INTO PURSUANT TO SECTION 14-10-113 (6), C.R.S.

SECTION 5. 31-30.5-304 (3.5), Colorado Revised Statutes, is
amended to read:

31-30.5-304. Limitation on existing funds - procedures.
(3.5) No later than September 1, 1995, the board of directors of the fire
and police pension association shall certify to the state auditor, the
legislative audit committee and the joint budget committee of the general
assembly, and the state treasurer the amount of state contribution
necessary to fund the supplemental unfunded liability in each
state-assisted policemen's or firefighters' pension plan attributable to the
reduction of the state's contribution for the year 1987. On September 30,
1995, the state treasurer shall transfer the amount certified from the
general fund to the OLD HIRE PLAN MEMBERS' BENEFIT TRUST fund created
by section 31-31-701, section 31-31-701 (6), and from such amount the
board shall distribute to each state-assisted policemen's or firefighters'
pension plan the amount necessary to eliminate the supplemental
unfunded liability in each plan; except that the amount transferred by the
state treasurer pursuant to this subsection (3.5) shall not exceed
twenty-five million five hundred thousand dollars.
SECTION 6. 31-30.5-306 (1) (b) (II), Colorado Revised Statutes, is amended to read:

31-30.5-306. Actuarial studies. (1) (b) (II) By September 30, 2001, and by September 30 of each year thereafter, until September 30, 2002, and by April 30, 2006, and by April 30 of each year thereafter, until April 30, 2012, or until all state-assisted old hire pension plans are fully funded, whichever comes first, an updated actuarial study shall be filed with the fire and police pension association. For the 2003-04 fiscal year and each fiscal year thereafter for which an actuarial study is filed, the actuarial study shall include a determination of the amount of the unfunded liability that may accrue as a result of the suspension of the state contribution of the fire and police members' benefit OLD HIRE PLAN MEMBERS' BENEFIT TRUST fund pursuant to section 31-30.5-307 (5) (a).

SECTION 7. 31-30.5-307 (2), (5) (a), (5) (b), and (6), Colorado Revised Statutes, are amended to read:

31-30.5-307. State contribution. (2) On September 30, 1995, and on September 30 of each year thereafter through 2002 and on April 30, 2006, and on April 30 of each year thereafter through 2012, the state treasurer shall transfer from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the OLD HIRE PLAN MEMBERS' BENEFIT TRUST fund created by section 31-31-701, an amount equal to twenty-six million six hundred thousand dollars minus the amount transferred under section 31-30-1112 (2) (g) (I). Such annual transfer to the fund under this subsection (2) shall cease when the requirements of paragraph (c) of subsection (1) of this section have been met, and the final annual transfer may be in an amount less than the amount prescribed by this subsection (2) as determined from the total amount of unfunded
accrued liability of employers. Moneys in said fund shall not revert to the
general fund but shall be continuously available for the purposes provided
in this part 3 and part 11 of article 30 of this title.

(5) (a) Notwithstanding any other provision of law, the state
treasurer shall not transfer moneys to the fire and police members' benefit
OLD HIRE PLAN MEMBERS' BENEFIT TRUST fund pursuant to subsection (2)
of this section on September 30, 2003, September 30, 2004, or September
30, 2005. The state treasurer shall resume such transfers beginning on
April 30, 2006, and shall make a transfer every April 30 thereafter until
2012 pursuant to subsection (2) of this section or until all state-assisted
old hire pension plans are fully funded, whichever comes first.

(b) Notwithstanding any other provision of law, the state shall
transfer to the fire and police members' benefit OLD HIRE PLAN MEMBERS'
BENEFIT TRUST fund any amount of unfunded liability accrued as a result
of the suspension of the state contribution to the fund pursuant to
paragraph (a) of this subsection (5) as determined in the actuarial study
filed with the fire and police pension association pursuant to section
31-30.5-306 (1) (b) (II). Such transfers may occur at any time until April
30, 2012.

(6) If voters statewide approve a ballot issue submitted by a joint
resolution of the general assembly as specified in section 24-115-110 (1)
(a), C.R.S., that authorizes the state to issue notes, as defined in section
24-115-103 (8), C.R.S., and to credit note proceeds to the fire and police
members' benefit INVESTMENT fund created by section 31-31-301, the
state obligation specified by this section shall be satisfied to the extent of
the actuarial equivalency of the proceeds from the notes.

SECTION 8. 31-31-202 (1) (a) (l), (1) (e), and (1) (h), Colorado
Revised Statutes, are amended to read:

31-31-202. Powers and duties of the board. (1) The board shall:

(a) Establish standards for determining the actuarial soundness of:

(I) The pension plans in the DEFINED BENEFIT SYSTEM AND THE AFFILIATED OLD HIRE PLANS AND THE AFFILIATED EXEMPT PLANS WITH ASSETS IN THE fire and police members' benefit INVESTMENT fund, in accordance with section 31-31-301 (1); and

(e) Administer or provide for the administration and, in accordance with the provisions of section 31-31-302 (1) SECTIONS 31-31-302 (1) AND 31-31-303, the investment of the fire and police members' benefit INVESTMENT fund AND THE FIRE AND POLICE MEMBERS' SELF-DIRECTED INVESTMENT FUND;

(h) Provide for disbursements from the fire and police members' benefit INVESTMENT fund created by section 31-31-301 (1) AND FROM THE FIRE AND POLICE MEMBERS' SELF-DIRECTED INVESTMENT FUND CREATED BY SECTION 31-31-301 (4). Such disbursements shall be made only for payment of the expenses of the association, payment of refunds to members, payment of survivor, disability, or retirement benefits, or for purposes of investment.

SECTION 9. 31-31-203, Colorado Revised Statutes, is amended to read:

31-31-203. Fund not subject to levy. Except for assignments for child support purposes as provided for in sections 14-10-118 (1) and 14-14-107, C.R.S., as they existed prior to July 1, 1996, for income assignments for child support purposes pursuant to section 14-14-111.5,
C.R.S., for writs of garnishment that are the result of a judgment taken for
arrearages for child support or for child support debt, for payments made
in compliance with a properly executed court order approving a written
agreement entered into pursuant to section 14-10-113 (6), C.R.S., and for
restitution that is required to be paid for the theft, embezzlement,
misappropriation, or wrongful conversion of public property or in the
event of a judgment for a willful and intentional violation of fiduciary
duties pursuant to this article where the offender or a related party
received direct financial gain, no portion of the funds created pursuant to
sections 31-31-301, 31-31-502, and 31-31-703 sections 31-31-204 (4),
31-31-502, 31-31-701 (6), 31-31-703, 31-31-706 (1), 31-31-813 (1), AND
31-31-901(3), before or after their order for distribution by the board to
the persons entitled thereto, shall be held, seized, taken, subjected to,
detained, or levied on by virtue of any attachment, execution, injunction,
writ, interlocutory or other order or decree, or process or proceeding
whatsoever issued out of or by any court of this state for the payment or
satisfaction, in whole or in part, of any debt, damage, claim, demand, or
judgment against the fire and police pension association or employers that
belong to such association or the beneficiary of such funds. The funds
shall be held and distributed for the purpose of this article and for no
other purpose whatsoever.

SECTION 10. Part 2 of article 31 of title 31, Colorado Revised
Statutes, is amended BY THE ADDITION OF A NEW SECTION to
read:

31-31-204. Defined benefit system. (1) THERE SHALL BE A
DEFINED BENEFIT SYSTEM THAT SHALL CONSIST OF THE FOLLOWING PLANS:

(a) THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED
Pursuant to Part 4 of this Article;

(b) The statewide hybrid plan established pursuant to Part 11 of this Article;

(c) Any exempt plan that is incorporated into the defined benefit system, pursuant to an agreement established under Section 31-31-706 (2);

(d) Any health care benefit plan established in association with the included plans; and

(e) Any other plan authorized to be incorporated into the statewide defined benefit system.

(2) The board may create plan documents for the plans within the defined benefit system that shall be in substantial conformance with the statutory provisions for each plan and that may include modifications and plan amendments as authorized under law.

(3) Qualification requirements - internal revenue code.

(a) As used in this section, "internal revenue code" means the federal "Internal Revenue Code of 1954", as in effect on September 1, 1974, if permitted with respect to governmental plans, or, to the extent not inconsistent with the federal "Internal Revenue Code of 1954", as in effect on September 1, 1974, "internal revenue code" means the federal "Internal Revenue Code of 1986", as amended and in effect on January 1, 1989.

(b) The defined benefit system and each of the plans established by Part 2, 4, 7, or 11 of this Article included within the system shall satisfy the qualification requirements specified
IN SECTION 401 OF THE INTERNAL REVENUE CODE, AS APPLICABLE TO
GOVERNMENTAL PLANS. IN ORDER TO MEET THOSE REQUIREMENTS, THE
STATEWIDE DEFINED BENEFIT PLAN IS SUBJECT TO THE FOLLOWING
PROVISIONS, NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE:

(I) The board shall distribute the corpus and income of
the pension plan to members and their beneficiaries in
accordance with this article and the plan documents and rules
adopted by the board.

(II) No part of the corpus or income of the pension plan
may be used for or diverted to any purpose other than that of
providing benefits to participants and their beneficiaries,
including assignments for child support purposes as provided for
in sections 14-10-118 (1) and 14-14-107, C.R.S., as they existed
prior to July 1, 1996, income assignments for child support
purposes pursuant to section 14-14-111.5, C.R.S., writs of
garnishment that are the result of a judgment taken for
arrearages for child support or for child support debt, and
payments made in compliance with a properly executed court
order approving a written agreement entered into pursuant to
section 14-10-113 (6), C.R.S., and defraying reasonable expenses
of administering the plan.

(III) Forfeitures arising from severance of employment,
death, or any other reason shall not be applied to increase the
benefits any member would otherwise receive under this article.

(IV) If the pension plan is terminated, or if all
contributions to the pension plan are permanently discontinued,
the rights of each affected member to the benefits accrued at
THE DATE OF THE TERMINATION OR DISCONTINUANCE, TO THE EXTENT THEN FUNDED, ARE NONFORFEITABLE.

(V) ALL BENEFITS PAID FROM THE PENSION PLAN SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 401 (a) (9) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS PROMULGATED UNDER THAT SECTION. IN ORDER TO MEET THOSE REQUIREMENTS, THE PENSION PLAN IS SUBJECT TO THE FOLLOWING PROVISIONS:

(A) THE LIFE EXPECTANCY OF A MEMBER, THE MEMBER'S SPOUSE, OR THE MEMBER'S BENEFICIARY SHALL NOT BE RECALCULATED AFTER THE INITIAL DETERMINATION FOR PURPOSES OF DETERMINING BENEFITS.

(B) IF A MEMBER DIES BEFORE THE DISTRIBUTION OF THE MEMBER'S BENEFITS HAS BEGUN, DISTRIBUTIONS TO BENEFICIARIES SHALL BEGIN NO LATER THAN DECEMBER 31 OF THE CALENDAR YEAR IMMEDIATELY FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER DIED.

(C) THE AMOUNT OF AN ANNUITY PAID TO A MEMBER'S BENEFICIARY MAY NOT EXCEED THE MAXIMUM DETERMINED UNDER THE INCIDENTAL DEATH BENEFIT REQUIREMENT OF THE INTERNAL REVENUE CODE.

(VI) BENEFITS PAID UNDER THE DEFINED BENEFIT SYSTEM ESTABLISHED BY THIS PART 2 MAY NOT EXCEED THE LIMITATIONS SPECIFIED BY SECTION 415 OF THE INTERNAL REVENUE CODE.

(VII) THE COMPENSATION TAKEN INTO ACCOUNT UNDER THIS PART 2 MAY NOT EXCEED THE APPLICABLE AMOUNT UNDER SECTION 401 (a) (17) OF THE INTERNAL REVENUE CODE.

(VIII) ANY DISTRIBUTEE WHO IS ENTITLED TO AN ELIGIBLE
ROLOVER DISTRIBUTION, AS DEFINED IN SECTION 402 (c) (4) OF THE INTERNAL REVENUE CODE, FROM THE STATEWIDE PENSION PLAN ON AND AFTER JANUARY 1, 1993, MAY ELECT TO HAVE THE PORTION OF SUCH DISTRIBUTION THAT WOULD OTHERWISE BE INCLUDED IN THE GROSS INCOME OF THE DISTRIBUTEE FOR FEDERAL INCOME TAX PURPOSES TRANSFERRED DIRECTLY TO AN ELIGIBLE RETIREMENT PLAN, AS DEFINED IN SECTION 402 (c) (8) (B) OF THE INTERNAL REVENUE CODE, DESIGNATED BY THE DISTRIBUTEE.

(IX) UPON ATTAINING THE ELIGIBILITY REQUIREMENTS FOR A BENEFIT, A MEMBER SHALL BE FULLY VESTED IN THE BENEFITS SUCH MEMBER HAS ACCRUED.

(4) Trust fund. (a) THERE IS HEREBY CREATED THE DEFINED BENEFIT SYSTEM TRUST FUND. ALL ASSETS HELD IN CONNECTION WITH THE DEFINED BENEFIT SYSTEM, INCLUDING ALL CONTRIBUTIONS TO THE PLANS IN THE SYSTEM, ALL PROPERTY AND RIGHTS ACQUIRED OR PURCHASED WITH SUCH AMOUNTS, AND ALL INCOME ATTRIBUTABLE TO SUCH AMOUNTS, PROPERTY, OR RIGHTS, SHALL BE HELD IN TRUST FOR THE EXCLUSIVE BENEFIT OF MEMBERS AND THEIR DESIGNATED BENEFICIARIES UNDER THE PLANS. SUCH ASSETS SHALL CONSTITUTE THE TRUST FUND.

NO PART OF THE ASSETS AND INCOME OF THE TRUST FUND SHALL BE USED FOR, OR DIVERTED TO, PURPOSES OTHER THAN FOR THE EXCLUSIVE BENEFIT OF MEMBERS AND THEIR DESIGNATED BENEFICIARIES AND FOR DEFRAYING REASONABLE EXPENSES OF THE SYSTEM.

(b) ALL AMOUNTS OF COMPENSATION CONTRIBUTED PURSUANT TO THE PLANS, ALL PROPERTY AND RIGHTS ACQUIRED OR PURCHASED WITH SUCH AMOUNTS, AND ALL INCOME ATTRIBUTABLE TO SUCH AMOUNTS, PROPERTY, OR RIGHTS HELD AS PART OF THE DEFINED BENEFIT SYSTEM,
INCLUDING MEMBER CONTRIBUTIONS, EMPLOYER CONTRIBUTIONS, ANY
STATE CONTRIBUTIONS, FEES COLLECTED, GIFTS RECEIVED, UNCLAIMED
DEPOSITS, AND INVESTMENT INCOME, SHALL BE TRANSFERRED TO THE
BOARD TO BE HELD, MANAGED, INVESTED, AND DISTRIBUTED AS PART OF
THE TRUST FUND IN ACCORDANCE WITH THE PROVISIONS OF THE
DOCUMENTS GOVERNING THE SYSTEM. ALL CONTRIBUTIONS TO THE PLANS
SHALL BE TRANSFERRED BY THE EMPLOYERS TO THE TRUST FUND. ALL
BENEFITS UNDER THE PLANS SHALL BE DISTRIBUTED SOLELY FROM THE
TRUST FUND PURSUANT TO THE DOCUMENTS GOVERNING THE SYSTEM.

(c) The Board is the Trustee of the Defined Benefit System

TRUST FUND.

(d) The following accounts shall be established within

the trust fund:

(I) A new hire benefits account for the statewide defined
benefit plan, into which contributions shall be deposited. The
benefits provided by the statewide defined benefit plan shall be
paid from such account.

(II) Accounts for the statewide hybrid plan as may be
required under the statewide hybrid plan document;

(III) Accounts for exempt plans incorporated into the
statewide defined benefit plan as may be required under the plan
documents; and

(IV) Accounts for health care benefit plans as may be
required under the health care plan documents.

SECTION 11. 31-31-301, Colorado Revised Statutes, is
amended to read:

31-31-301. Investment funds - creation. (1) (a) There is
hereby created the fire and police members' benefit INVESTMENT fund, which shall consist of the portion of the assets that are designated for investment by the board of the following fire and police benefit plans: including member contributions, employer contributions, any state contributions, fees collected, gifts received, unclaimed deposits, and investment income:

(I) The statewide defined benefit plan system established in part 4 part 2 of this article;

(II) Old hire police and fire pension plans established in article 30.5 of this title, which are affiliated with the association pursuant to part 7 of this article;

(III) Exempt plans established pursuant to part 8 of article 30.5 of this title, which are affiliated with the association pursuant to part 7 of this article;

(IV) Volunteer firefighter pension plans, which are affiliated with the association pursuant to part 7 of this article; and

(V) The statewide health-care defined benefit death and disability plan established in section 31-31-904 part 8 of this article.

(b) The board shall keep an accurate account of each the assets of each plan deposited in the investment fund and shall disburse moneys in accordance with the provisions of this article and the applicable plan document.

(2) There shall be established in the fund a disability and death benefits account into which contributions for death and disability benefits, including state contributions made pursuant to section 31-31-811, shall be deposited. The benefits provided by part 8 of this article, together with the expenses of administering such part, shall be paid from such account.
(3) (a) There shall be established in the fund a new-hire benefits account, into which contributions made pursuant to section 31-31-402 shall be deposited. The benefits provided by the statewide defined benefit plan established in part 4 of this article, together with the expenses of administering the plan, shall be paid from such account:

(b) Within the new-hire benefits account, there shall be established two subaccounts:

(i) An actuarial account, into which that portion of the new-hire benefits account necessary to fund benefit liabilities accrued under sections 31-31-403 and 31-31-404 (2), as determined by the 1987 actuarial study, shall be deposited;

(ii) A stabilization reserve account, into which the remainder in the new-hire benefits account, after allocation pursuant to subparagraph (i) of this paragraph (b), may be deposited:

(c) In each year after 1987, the board may allocate additional deposits to the new-hire benefits account between the actuarial account and the stabilization reserve account based upon the actuarial study for the previous year. If in any year the total amount of additional deposits to the new-hire benefits account is not sufficient to meet the benefit liabilities funded by the actuarial account, then such additional amount as may be necessary to fund the increase shall be transferred from the stabilization reserve account to the actuarial account. If in any year the total amount of additional deposits to the new-hire benefits account exceeds the amount required to meet any increase in the benefit liabilities funded by the actuarial account, the board, in its sole discretion, may allocate all or any part of such excess to the stabilization reserve account. Any excess allocated to the stabilization reserve account in any year shall
be allocated from that portion of deposits to the new hire benefits account
constituting employer contributions to the statewide defined benefit plan
established by part 4 of this article.

(d) Repealed:

(4) (a) There is hereby created the Fire and Police
Members' Self-Directed Investment Fund, which shall consist of
the portion of the assets that are designated for self-direction
by the member of the following plans:

(I) The defined benefit system established in Part 2 of this
article;

(II) Old hire Police and Fire Pension Plans established in
Article 30.5 of this Title, which are affiliated with the
Association pursuant to Part 7 of this Article;

(III) The Fire and Police Members' Statewide Money
Purchase Plan established in Part 5 of this Article;

(IV) The Affiliated Fire and Police Members' Money
Purchase Plans established in Part 7 of this Article;

(V) The Fire and Police Members' Deferred Compensation
Plans established in Part 9 of this Article; and

(VI) The Affiliated Exempt Plans which are affiliated with
the Association pursuant to Part 7 of this Article.

(b) The board shall keep an accurate account of the
assets of each plan deposited in the Investment Fund and shall
disburse moneys in accordance with the provisions of this
Article and the applicable plan document.

SECTION 12. 31-31-302 (1) (a), Colorado Revised Statutes, is
amended to read:

(1) (a) The board shall be the trustee of the FIRE AND POLICE MEMBERS' BENEFIT INVESTMENT fund and shall have full and unrestricted discretionary power and authority to invest and reinvest such portions of the fund as in its judgment may not be immediately required for the payment of refunds or benefits. In exercising its discretionary authority with respect to the management and investment of fund assets, the board shall be governed by the standard and other provisions for trustees set forth in the "Colorado Uniform Prudent Investor Act", article 1.1 of title 15, C.R.S.

SECTION 13. Part 3 of article 31 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-31-303. Fire and police members' self-directed investment fund - management - investment. (1) THE BOARD SHALL BE THE TRUSTEE OF THE FIRE AND POLICE MEMBERS' SELF-DIRECTED INVESTMENT FUND SUBJECT TO THE MEMBERS' ALLOCATION OF MONEYS IN THEIR ACCOUNTS TO THE ALTERNATIVES OFFERED BY THE BOARD. A MEMBER WHO EXERCISES CONTROL OVER THE PLAN ASSETS IN THE MEMBERS' ACCOUNT SHALL NOT BE DEEMED TO BE A FIDUCIARY BY REASON OF SUCH EXERCISE OF CONTROL, AND THE BOARD SHALL NOT BE LIABLE FOR ANY LOSS THAT RESULTS FROM SUCH EXERCISE OF CONTROL.

(2) THE BOARD SHALL DESIGNATE ONE OR MORE FINANCIAL INSTITUTIONS AS CUSTODIANS OF THE FIRE AND POLICE MEMBERS' SELF-DIRECTED INVESTMENT FUND. ALL MONEYS PAID OR TRANSMITTED TO THE CUSTODIAN SHALL BE CREDITED TO APPROPRIATE ACCOUNTS IN THE FUND, AND THE CUSTODIAN SHALL MAINTAIN A CURRENT INVENTORY
(3) Disbursements from the fire and police members' self-directed investment fund shall be made, subject to the approval of the board, only for payment of the expenses of the association in connection with the administration of the fund, refunds to the members, benefits, and investment purposes.

(4)(a) The board may allow a member to exercise control of the investment of part or all of the member's accrued benefit under the member's plan. In allowing a member to exercise such control, the board shall:

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

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

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

(b) The board shall adopt rules governing the calculation and allocation of earnings and losses under the various investment alternatives that it may offer, the transfer of assets between funds under each alternative, the allocation of a member's account between investment alternatives, and such other matters as may be necessary to its administration.
AND MANAGEMENT OF THE FIRE AND POLICE MEMBERS' SELF-DIRECTED
INVESTMENT FUND CREATED PURSUANT TO THIS SECTION.

(5) ANY PROVIDER OF INVESTMENT PRODUCTS THAT CONTRACTS
WITH THE BOARD SHALL BE HELD TO THE STANDARD OF CONDUCT SET
FORTH IN PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION WITH
RESPECT TO THOSE FUNCTIONS OVER WHICH THE PROVIDER HAS
SUBSTANTIAL DISCRETION. THE BOARD IS AUTHORIZED TO TAKE SUCH
STEPS, INCLUDING BUT NOT LIMITED TO MAKING CONTRACT AMENDMENTS,
AS ARE REQUIRED TO ACCOMPLISH THE PROVISIONS OF THIS SUBSECTION
(5).

(6) THE BOARD SHALL SUBMIT AN ANNUAL AUDIT OF THE FIRE
AND POLICE MEMBERS' SELF-DIRECTED INVESTMENT FUND TO THE
GENERAL ASSEMBLY AND THE ANNUAL AUDIT OF THE FUND TO EACH
EMPLOYER. EACH EMPLOYER SHALL MAKE THE AUDIT AVAILABLE FOR
REVIEW BY ITS MEMBERS.

SECTION 14. 31-31-402 (1), (2), and (3), Colorado Revised
Statutes, are amended, and the said 31-31-402 is further amended BY
THE ADDITION OF A NEW SUBSECTION, to read:

31-31-402. Employer and member contributions. (1) On and
after January 1, 1980, until the board is able to determine a contribution
rate from the first annual actuarial valuation, every member covered
under the statewide defined benefit plan established by this part 4 shall
pay into the fire and police members' benefit defined benefit system
trust fund eight percent of salary paid. The payment shall be made by
the employer by deduction from the salary paid such member. Each
employer shall pick up the employee contributions required for all salaries
paid after July 1, 1985, and the contributions so picked up shall be treated
as employer contributions pursuant to section 414 (h) (2) of the federal "Internal Revenue Code of 1986", as amended, in determining tax treatment under such code. The employer shall pay these employee contributions directly to the retirement association, instead of paying such amounts to employees, and such contributions shall be paid from the same funds that are used in paying salaries to the employees. Such contributions, although designated as employee contributions, shall be paid by the employer in lieu of contributions by employees. Employees may not elect to choose to receive such contributions directly instead of having them paid by the employer to the pension plan. Employee contributions so picked up shall be treated for all purposes of this article, other than federal tax, in the same manner as employee contributions made before the date picked up. Payment shall be made by one voucher for the aggregate amount deducted and shall be made no later than the tenth day after the end of each pay period. All such payments shall be credited to the defined benefit system trust fund.

(2) On and after January 1, 1980, until the board is able to determine a contribution rate from the first annual actuarial valuation, every employer employing members who are covered by the statewide defined benefit plan established by this part 4 shall pay into the fire and police members' benefit defined benefit system trust fund eight percent of the salary paid to such member, and such payment shall be made no later than the tenth day after the end of each pay period. All such payments shall be credited to the defined benefit system trust fund.

(3) The general assembly declares that the rates of employee and
employer contributions shall be adequate to fund benefit liabilities accrued under the statewide defined benefit plan established by this part 4, and to this end, the board shall submit an annual actuarial valuation report to the state auditor, the legislative audit committee, and the joint budget committee of the general assembly, together with any recommendations concerning such liabilities as accrued. Amortization of such liability over a forty-year period shall be deemed adequate to maintain actuarial stability. If the actual financial experience of the new hire benefits account in the fire and police members' defined benefit system trust fund is found to be more or less favorable than the assumed experience during the two-year period from January 1, 1980, and each biennium thereafter, adjustments may be made by the board in the employee and employer contributions as may be deemed feasible and advisable so long as employer contributions are at least equal to employee contributions.

(5) (a) There shall be established in the defined benefit system trust fund a new hire benefits account into which contributions made pursuant to this section shall be deposited. The benefits provided by the statewide defined benefit plan established in part 4 of this article, together with the expenses of administering the plan, shall be paid from such account.

(b) Defined benefit assets of the statewide defined benefit plan shall be administered within the fire and police members' benefit investment fund and assets of the of the plan designated for self direction shall be administered within the fire and police members' self-directed investment fund.

SECTION 15. 31-31-403 (2) (a) (II) and (2) (b), Colorado
Revised Statutes, are amended to read:

31-31-403. Normal retirement - statewide defined benefit plan. (2) (a) If in any year the board determines pursuant to this part 4 that the cost of the benefits described in paragraph (b) of subsection (1) of this section, excluding the benefit described in section 31-31-405, may not be fully funded on an actuarially sound basis without necessitating an increase in the eight percent employer and eight percent member contribution made pursuant to section 31-31-402, the board shall not increase such employer or member contributions unless:

(II) The board has transferred all funds in the stabilization reserve account to the actuarial account as required by section 31-31-301 (3)(b) and (3)(c) SECTION 31-31-405 (1) AND (2), except such funds as are attributable to the separate retirement account of any member who has terminated service after at least five years of credited service.

(b) Nothing in this subsection (2) shall be construed to prohibit the board from utilizing the provisions of section 31-31-301 (3) SECTION 31-31-405 to provide the benefit described in section 31-31-405 said SECTION in any subsequent year when the total amount of additional deposits to the new hire benefits account exceeds the amount needed to meet the benefit liabilities funded by the actuarial account pursuant to section 31-31-301 (3) SECTION 31-31-405.

SECTION 16. 31-31-405, Colorado Revised Statutes, is amended to read:

31-31-405. Stabilization reserve account and separate retirement account - creation - allocation. (1) WITHIN THE NEW HIRE BENEFITS ACCOUNT, CREATED PURSUANT TO SECTION 31-31-402 (5), THERE SHALL BE ESTABLISHED TWO SUBACCOUNTS:
(a) An actuarial account, into which that portion of the new hire benefits account necessary to fund benefit liabilities accrued under sections 31-31-403 and 31-31-404(2), as determined by the 1987 actuarial study, shall be deposited;

(b) A stabilization reserve account, into which the remainder in the new hire benefits account, after allocation pursuant to subparagraph (a) of this subsection (1), may be deposited.

(2) In each year after 1987, the board may allocate additional deposits to the new hire benefits account between the actuarial account and the stabilization reserve account based upon the actuarial study for the previous year. If in any year the total amount of additional deposits to the new hire benefits account is not sufficient to meet the benefit liabilities funded by the actuarial account, then such additional amount as may be necessary to fund the increase shall be transferred from the stabilization reserve account to the actuarial account. If in any year the total amount of additional deposits to the new hire benefits account exceeds the amount required to meet any increase in the benefit liabilities funded by the actuarial account, the board, in its sole discretion, may allocate all or any part of such excess to the stabilization reserve account. Any excess allocated to the stabilization reserve account in any year shall be allocated from that portion of deposits to the new hire benefits account constituting employer contributions to the statewide defined benefit plan established by this Part 4.

(3) For accounting purposes only, the stabilization reserve account
account created by section 31-31-301 (3) (a) (H) SUBSECTION (1) OF THIS
SECTION shall consist of individual separate retirement accounts
established in the name of each member covered by the statewide defined
benefit plan established by this part 4, except such members as are
covered on a supplemental basis pursuant to section 31-31-704.

(2) (4) Such amount as may be allocated to the stabilization
reserve account pursuant to section 31-31-301 (3) (b) SUBSECTION (1) OF
THIS SECTION shall be further allocated to each member's separate
retirement account based upon the difference between a member's
employer and employee contributions to the new hire benefits account for
each payroll period and the proportionate amount of such contributions
that is allocated to the actuarial account pursuant to section 31-31-301 (3)
(b) SUBSECTION (1) OF THIS SECTION.

(3) (5) 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.

(4) (6) Any amount allocated to a member's separate retirement
account shall be subject to reduction prior to the time a member has
terminated service in the event that additional amounts must be
transferred to the actuarial account as set forth in section 31-31-301 (3)
(b) and (3) (c) SUBSECTIONS (1) AND (2) OF THIS SECTION. Reductions in
a member's separate retirement account pursuant to this subsection (4)
SUBSECTION (6) shall be made on a pro rata basis in the proportion that
the balance in a member's separate retirement account bears to the total
balance of all members' separate retirement accounts.

SECTION 17. Repeal. 31-31-409, Colorado Revised Statutes,
is repealed as follows:

31-31-409. Qualification requirements - internal revenue code. (1) As used in this section, "internal revenue code" means the federal "Internal Revenue Code of 1954", as in effect on September 1, 1974, if permitted with respect to governmental plans, or, to the extent not inconsistent with the federal "Internal Revenue Code of 1954", as in effect on September 1, 1974, "internal revenue code" means the federal "Internal Revenue Code of 1986", as amended and in effect on January 1, 1989:

(2) The statewide defined benefit plan established by this part 4 to provide retirement benefits for members hired on or after April 8, 1978, shall satisfy the qualification requirements specified in section 401 of the internal revenue code, as applicable to governmental plans. In order to meet those requirements, the statewide defined benefit plan is subject to the following provisions, notwithstanding any other provision of this part 4:

(a) The board shall distribute the corpus and income of the pension plan to members and their beneficiaries in accordance with this part 4 and the rules adopted by the board:

(b) No part of the corpus or income of the pension plan may be used for or diverted to any purpose other than that of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the plan:

(c) Forfeitures arising from severance of employment, death, or any other reason may not be applied to increase the benefits any member would otherwise receive under this part 4:

(d) If the pension plan is terminated, or if all contributions to the
pension plan are permanently discontinued, the rights of each affected
member to the benefits accrued at the date of the termination or
discontinuance, to the extent then funded, are nonforfeitable:

(e) All benefits paid from the pension plan shall be distributed in
accordance with the requirements of section 401(a)(9) of the internal
revenue code and the regulations promulgated under that section. In
order to meet those requirements, the pension plan is subject to the
following provisions:

(f) The life expectancy of a member, the member's spouse, or the
member's beneficiary shall not be recalculated after the initial
determination, for purposes of determining benefits.

(ii) If a member dies before the distribution of the member's
benefits has begun, distributions to beneficiaries must begin no later than
December 31 of the calendar year immediately following the calendar
year in which the member died:

(iii) The amount of an annuity paid to a member's beneficiary
may not exceed the maximum determined under the incidental death
benefit requirement of the internal revenue code.

(f) (Deleted by amendment, L. 98, p. 25, § 4, effective March 16,
1998.)

(g) Benefits paid under the statewide defined benefit plan
established by this part 4 may not exceed the limitations specified by
section 415 of the internal revenue code, including the special rule under
section 415(b)(10) of the internal revenue code.

(h) The compensation taken into account under this part 4 may
not exceed the applicable amount under section 401(a)(17) of the
internal revenue code.
(i) (Deleted by amendment, L. 98, p. 25, § 4, effective March 16, 1998.)

(j) Any distributee who is entitled to an eligible rollover distribution, as defined in section 402(c)(4) of the internal revenue code, from the statewide pension plan on and after January 1, 1993, may elect to have the portion of such distribution that would otherwise be included in the gross income of the distributee for federal income tax purposes transferred directly to an eligible retirement plan, as defined in section 402(c)(8)(B) of the internal revenue code, designated by the distributee.

(k) Upon attaining the eligibility requirements for a benefit, a member shall be fully vested in the benefits such member has accrued.

SECTION 18. 31-31-501 (5) (b), Colorado Revised Statutes, is amended to read:

31-31-501. Withdrawal into statewide money purchase plan.

(5) (b) In the event that the amount of the reserves on deposit in the new hire benefits account, as calculated by the actuary, for the employer making application for withdrawal, exceeds the amount of reserves required pursuant to the provisions of subsection (4) of this section, such excess amount and the amount required for the transfer of member contributions as provided in subsection (6) of this section shall be transferred to the fire and police members' statewide money purchase plan benefit TRUST fund on the effective date of withdrawal. Allocation of such amounts to individual member accounts under the statewide money purchase plan shall be made as set forth in section 31-31-502.

SECTION 19. 31-31-502 (1), (2) (a), and (2) (c), Colorado Revised Statutes, are amended to read:

31-31-502. Statewide money purchase plan - creation -
management. (1) The board shall develop, maintain, and amend a statewide money purchase plan document that is intended to comply with the qualification requirements specified in section 401 of the internal revenue code, as applicable to governmental plans. As used in this subsection (1), "internal revenue code" shall have that meaning set forth in section 31-31-469(1) SECTION 31-31-204(3). The plan shall cover the members of those employers that have withdrawn from the statewide defined benefit plan pursuant to section 31-31-501.

(2) (a) There is hereby created the fire and police members' statewide money purchase plan benefit TRUST fund, which shall consist of moneys of employers that have withdrawn from the statewide defined benefit plan pursuant to section 31-31-501, including member and employer contributions and such amounts as are transferred pursuant to section 31-31-501. The board shall keep an accurate account of the fund and of each member's separate account in the fund. The board may allow a member to exercise control of the investment of part or all of the member's accrued benefit under the plan. In allowing a member to exercise such control, the board shall:

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

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

(iii) Provide the member with information describing the investment alternatives, the nature, investment performance, fees, and expenses of investment alternatives, and other information to enable a
In its administration, investment, and management of the FIRE AND POLICE MEMBERS' STATEWIDE MONEY PURCHASE PLAN BENEFIT TRUST fund, the board shall be subject to the same provisions applicable to its administration, investment, and management of the fire and police members' money purchase plan benefit fund as set forth in section 31-31-703(2) to (7) of section 31-31-303.

SECTION 20. 31-31-701 (3), Colorado Revised Statutes, is amended, and the said 31-31-701 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-31-701. Affiliation by old hire pension plans. (3) On the effective date of affiliation pursuant to this section, the assets of the old hire pension plan shall be transferred to the TRUST fund created by section 31-31-301(2) SUBSECTION (6) OF THIS SECTION. Such transfer shall be at the market value of such assets at the close of business on date of affiliation. Upon affiliation and the transfer of assets to the fund, benefits due pursuant to the old hire plan shall be paid by the association.

(6) THERE IS HEREBY CREATED THE OLD HIRE PLAN MEMBERS' BENEFIT TRUST FUND THAT SHALL CONSIST OF THE ASSETS OF OLD HIRE PLANS ADMINISTERED AND MANAGED BY THE BOARD PURSUANT TO THIS SECTION. THE BOARD SHALL KEEP AN ACCURATE ACCOUNT OF EACH SUCH INDIVIDUAL OLD HIRE PLAN.

SECTION 21. 31-31-703, Colorado Revised Statutes, is amended to read:

31-31-703. Money purchase plan benefit fund - creation -
There is hereby created the fire and police members' money purchase plan benefit TRUST fund that shall consist of the assets of money purchase plans administered and managed by the board pursuant to section 31-31-702. The board shall keep an accurate account of each such individual fund. In addition, the board shall keep an accurate account of each member's separate account in any such individual fund. The board may allow a member to exercise control of the investment of part or all of the member's accrued benefit under the member's plan. In allowing a member to exercise such control, the board shall:

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

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

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

(IV) (Deleted by amendment, L. 97, p. 15, § 6, effective March 13, 1997.)

(b) The board shall adopt rules governing the calculation and allocation of earnings and losses under the various investment alternatives that it may offer, the transfer of assets between funds under each alternative, the allocation of a member's account between investment alternatives, and such other matters as may be necessary to its
administration and management of the fund created pursuant to this
section:

(2) The board shall be the trustee of the fire and police members'
money purchase plan benefit fund subject to the members' allocation of
moneys in their accounts to the alternatives offered by the board. A
member who exercises control over the plan assets in the member's
account shall not be deemed to be a fiduciary by reason of such exercise
of control, and the board shall not be liable for any loss that results from
such exercise of control. In exercising its discretionary authority with
respect to the investment and management of the fund assets that are
allocated to the fire and police members' benefit fund created pursuant to
section 31-31-301 (1)(a), the board shall be governed by the standard and
other provisions for trustees set forth in the "Colorado Uniform Prudent
Investor Act", article 1.1 of title 15, C.R.S:

(3) The board shall designate one or more financial institutions
as custodians of the fund. All moneys paid or transmitted to the custodian
shall be credited to appropriate accounts in the fund, and the custodian
shall maintain a current inventory of all investments of the fund:

(4) Disbursements from the fund shall be made, subject to the
approval of the board, only for payment of the expenses of the association
in connection with the administration of the fund, refunds to the
members, benefits, and investment purposes:

(5) (Deleted by amendment, L. 97, p. 15, § 6, effective March 13,
1997):

(6) All transactions involving the purchase and sale of
investments authorized in this section shall be effected on behalf of the
association. To facilitate sale and exchange transactions, securities
The board shall submit an annual audit of the fund to the general assembly and to each employer that has affiliated its money purchase plan fund pursuant to section 31-31-702. Each employer shall make the audit and study available for review by its members.

SECTION 22. 31-31-706 (2) (a) and (2) (b), Colorado Revised Statutes, are amended to read:

31-31-706. Affiliation by exempt defined benefit pension plans.

(2) (a) As an alternative to affiliation for investment management pursuant to subsection (1) of this section, at the request of any local employer having an exempt defined benefit pension plan, the board is authorized to make an agreement with the employer's governing body to incorporate the exempt defined benefit pension plan into the statewide defined benefit plan system. The incorporation shall be under terms and conditions that are mutually agreeable to the employer's governing body and the board and as may be required to maintain the qualified status of the plan under the federal "Internal Revenue Code of 1986", as amended.

(b) Prior to the implementation of an agreement of incorporation pursuant to paragraph (a) of this subsection (2), the board shall find that
the incorporation is not projected to have an adverse actuarial impact on
eexisting members of the statewide defined benefit plan SYSTEM. The
board and the employer's governing body are authorized to take all
actions necessary to accomplish the agreement and to maintain the
qualified status of the formerly exempt defined benefit pension plan after
incorporation into the statewide defined benefit plan SYSTEM.
Notwithstanding any other requirement, an exempt defined benefit
pension plan may be incorporated into the statewide defined benefit plan
SYSTEM without the approval of the members of the exempt plan or the
statewide plan.

SECTION 23. 31-31-811 (1), Colorado Revised Statutes, is
amended to read:

31-31-811. State funding of death and disability. (1) Every
employer in this state, except those employers covering their employees
under social security and those described in section 31-31-802 (2) (b) and
(2) (c) who have not elected to be subject to the provisions of this part 8,
shall be governed by the provisions of this section. For members who die
or are disabled on or after January 1, 1980, the death and disability
benefits provided to any member pursuant to this part 8 shall be paid for
by state moneys transferred to the FIRE AND POLICE MEMBERS' BENEFIT
INVESTMENT fund created by section 31-31-301 (1) (a), subject to the
limitations imposed by this section. Moneys in the account DISABILITY
AND DEATH BENEFITS TRUST FUND created by section 31-31-301- (2)
SECTION 31-31-813 shall not be used for any purpose other than the
payment of the death and disability benefits established by this part 8.

SECTION 24. Part 8 of article 31 of title 31, Colorado Revised
Statutes, is amended BY THE ADDITION OF A NEW SECTION to
31-31-813. Statewide death and disability trust fund - created.

(1) There is hereby created a disability and death benefits trust fund into which contributions for death and disability benefits, including state contributions made pursuant to section 31-31-811, shall be deposited. The benefits provided by this part 8, together with the expenses of administering said part, shall be paid from the fund.

(2) The assets of the disability and death benefits trust fund shall be invested in the fire and police members' benefit investment fund.

SECTION 25. 31-31-901, Colorado Revised Statutes, is 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 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 TRUST 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 TRUST fund and shall
keep a separate account of the assets of each deferred compensation plan
held within the TRUST 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 participant to exercise control over the investment of the
participant's assets in a plan. In allowing a participant to exercise such
control, the board shall: THE BOARD SHALL ALLOW INVESTMENT OF THE
TRUST FUND THROUGH THE FIRE AND POLICE MEMBERS' SELF-DIRECTED
INVESTMENT FUND PURSUANT TO SECTION 31-31-301 (4).

(a) Select at least three investment alternatives, each of which is
diversified in itself, that allow the 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 participant to change investments at least once
each calendar quarter; and

(c) Provide the 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 participant to make informed investment
(4) In its administration of deferred compensation plans pursuant to the provisions of this section, the board shall act in accordance with the provisions of this article:

(5) Any provider of investment products that contracts with the board shall be held to the standard of conduct set forth in subsection (3) of this section with respect to those functions over which the provider has substantial discretion. The board is authorized to take such steps, including but not limited to, making contract amendments, as are required to accomplish the provisions of this subsection (5):

(6) The directors of the board shall not engage in any activities that might result in a conflict of interest with the function of the board as administrator of any deferred compensation plan or with the role of the board as trustee of the fund created in section 31-31-301.

(7) (4) The expenses incurred by the board in the administration of each deferred compensation plan shall be paid from the assets of such plan being held in the fire and police members' deferred compensation fund pursuant to the provisions of subsection (3) of this section. Such expenses shall not be paid for by the fire and police pension association.

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

(a) "Deferred compensation" means that income that a 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 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 26. 31-31-904 (4) and (6) (b), Colorado Revised Statutes, are amended to read:

31-31-904. Statewide health care defined benefit plan - definitions. (4) Contributions to the statewide health care defined benefit plan shall be the responsibility of the eligible members, unless an eligible member's employer elects to pay all or a portion of his or her contribution. All of the contributions shall be credited to the fire and police members' benefit DEFINED BENEFIT SYSTEM TRUST fund.

(6) As used in this section, unless the context otherwise requires:

(b) "Internal revenue code" shall have the same meaning as provided in section 31-31-409 (1) SECTION 31-31-204 (3).

SECTION 27. 31-31-1102 (1), (2), (3), and (4) (a), Colorado Revised Statutes, are amended to read:

31-31-1102. Statewide hybrid plan - creation - management.

(1) The board is authorized to develop, maintain, and amend a statewide hybrid plan document THAT IS A COMPONENT OF THE DEFINED BENEFIT SYSTEM AND that offers a combination of defined benefit and defined
contribution benefits and that is intended to comply with the qualification
requirements specified in section 401 of the federal "Internal Revenue
Code of 1986", as amended, that are applicable to governmental plans.
The plan shall cover the members of those employers that have elected
coverage under the plan pursuant to section 31-31-1101.

(2) (a) There is hereby created the fire and police members' state

wide hybrid plan benefit fund ACCOUNT THAT SHALL BE A COMPONENT OF THE DEFINED BENEFIT SYSTEM TRUST FUND AND that shall
consist of moneys of employers that have elected coverage pursuant to
section 31-31-1101, including member and employer contributions and
such amounts as may be transferred pursuant to section 31-31-1101. The
board shall keep an accurate account of the fund, each member's separate
account in the fund, and each member's service credit earned under the
statewide hybrid plan. The board may allow a member to exercise control
of the investment of part of the member's accrued benefit under the plan:
In allowing a member to exercise such control, the board shall:

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

(H) Allow the member to change investments at least once each
calendar quarter, and

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

(b) The statewide hybrid plan document created by the board

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pursuant to subsection (1) of this section shall govern the accrual of
service credit, vesting, the benefits to be offered based on age and service,
the allocation of contributions towards funding the defined benefit and
the defined contribution, the calculation and allocation of earnings and
losses under the various investment alternatives which the board may
offer, the transfer of assets between funds under each investment
alternative, the allocation of a member's account between investment
alternatives, and such other matters as may be necessary to the board's
administration and management of the statewide hybrid plan benefit fund
created pursuant to this section.

(c) DEFINED BENEFIT ASSETS OF THE STATEWIDE HYBRID PLAN
SHALL BE ADMINISTERED WITHIN THE FIRE AND POLICE MEMBERS' BENEFIT
INVESTMENT FUND, AND SELF-DIRECTED ASSETS OF THE PLAN SHALL BE
ADMINISTERED WITHIN THE FIRE AND POLICE MEMBERS' SELF-DIRECTED
INVESTMENT FUND. In its administration, investment, and management
of the defined contribution assets within OF the statewide hybrid plan
benefit fund; the board shall be subject to the same provisions applicable
to its administration, investment, and management of the fire and police
members' money purchase plan benefit fund as set forth in section
31-31-703-(2) to (7). In its administration, investment, and management
of the defined benefit assets within the statewide hybrid plan benefit fund;
the board shall be subject to the same provisions applicable to its
administration of the fire and police member's benefit fund as set forth in
section 31-31-302 OF SECTION 31-31-303.

(3) Each member's member and employer contributions
transferred to the statewide hybrid plan benefit fund pursuant to section
31-31-1101 shall be allocated to the member's separate account within the
fund PLAN.

(4) (a) Except as provided in paragraph (b) of this subsection (4), upon the effective date of coverage under the statewide hybrid plan, each member covered by the plan shall pay into the DEFINED BENEFIT SYSTEM TRUST fund eight percent of salary paid. The payment shall be made by the employer by deduction from the salary paid to such member. Except as provided in paragraph (b) of this subsection (4), for each such member, the employer shall pay into the statewide hybrid plan benefit DEFINED BENEFIT SYSTEM TRUST fund eight percent of the salary paid to such member. Payments 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 added to the employer payments required pursuant to this section.

SECTION 28. Applicability. Section 5 of this act shall apply to transfers made on or after the effective date of this act.

SECTION 29. 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.
CONCERNING THE STRUCTURE OF TRUST FUNDS AND INVESTMENT FUNDS IN THE ADMINISTRATION OF ASSETS FOR THE BENEFIT OF FIREFIGHTERS AND POLICE OFFICERS.

Summary of Assessment

The bill makes several changes to align the Fire and Police Pension Association (FPPA) defined benefit system with current Internal Revenue Service requirements. It also separates assets under FPPA's control into trust funds and investment funds in order to simplify financial reporting. It will not affect state or local government revenues or expenditures and is not expected to significantly affect the FPPA. In the long term, changing the structure of funds held by FPPA to simplify and clarify the accounting and reporting of such funds may potentially save staff time, although this impact is expected to be minimal. As such, the bill is assessed as having no fiscal impact.

The bill would take effect upon signature of the Governor.

Departments Contacted

Fire and Police Pension Association
A BILL FOR AN ACT
101 CONCERNING THE PARTIAL ENTRY INTO THE FIRE AND POLICE PENSION
102 ASSOCIATION DEFINED BENEFIT SYSTEM BY MEMBERS OF
103 MONEY PURCHASE PLANS WHERE ALL FUTURE ELIGIBLE
104 EMPLOYEES ARE REQUIRED TO PARTICIPATE IN THE DEFINED
105 BENEFIT SYSTEM.

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. Allows an employer to apply to the board of directors of the fire and police pension association for coverage under the statewide hybrid plan or statewide defined benefit plan (defined benefit system) for some, but not all, of the members of a local money purchase plan or the statewide money purchase plan. Creates this partial entry procedure as an alternative to the existing procedure for entry into the defined benefit system of the members of a local money purchase plan or the statewide money purchase plan, which requires approval by 65% of all active members employed by an employer. Under the partial entry procedure, establishes that the active members of a local money purchase plan or the statewide money purchase plan that choose to be part of the defined benefit system will be covered under the defined benefit system, as well as all future eligible employees. In the case of entry that is approved by 65% of all active members employed by an employer, clarifies that all future employees hired after the effective date of coverage under the defined benefit system will become participants in the defined benefit system. Makes conforming changes to the application certification process for employers and to the authority of the board to promulgate rules.

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

SECTION 1. 31-31-1101 (1), (2), (3), (4), (5) (c), and (6) (a), Colorado Revised Statutes, are amended, and the said 31-31-1101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-31-1101. Entry into the statewide hybrid plan. (1) Any employer who has established a local money purchase plan pursuant to part 6 of this article or article 30.5 of this title or has withdrawn into the statewide money purchase plan pursuant to part 5 of this article may apply to the board to cover SOME OR ALL OF the existing members of its money
purchase plan under the statewide hybrid plan established pursuant to section 31-31-1102. An application may be initiated by filing with the board a resolution adopted by the employer pursuant to subsection (2) of this section no less than six months prior to the proposed effective date of coverage under the statewide hybrid plan, unless a shorter waiting period is approved by the board.

(2) The employer's resolution applying for coverage under the statewide hybrid plan shall be adopted by the governing body of the employer and shall state the employer's intent to cover UNDER THE STATEWIDE HYBRID PLAN SOME OR ALL OF THE CURRENT members of its money purchase plan under the statewide hybrid plan AND ALL OF THE EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE HYBRID PLAN THAT MEET THE DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4).

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3.5) OF THIS SECTION, any application for coverage under the statewide hybrid plan shall be approved by at least sixty-five percent of all active members employed by the employer who are participating in the money purchase plan at the time of the application.

(3.5) IN LIEU OF AN ELECTION TO OBTAIN THE APPROVAL BY AT LEAST SIXTY-FIVE PERCENT OF ALL ACTIVE MEMBERS AS REQUIRED BY SUBSECTION (3) OF THIS SECTION, THE EMPLOYER MAY OFFER EACH ACTIVE LOCAL PLAN MEMBER THE OPTION TO DISCONTINUE PARTICIPATION IN THE LOCAL MONEY PURCHASE PLAN AND TO PARTICIPATE IN THE STATEWIDE HYBRID PLAN. THE OFFER SHALL BE A ONE-TIME EVENT AND SHALL BE EXTENDED TO ALL ACTIVE LOCAL PLAN MEMBERS EMPLOYED BY THE EMPLOYER AT THE TIME OF THE OFFER. ACTIVE LOCAL PLAN
MEMBERS THAT CHOOSE TO DISCONTINUE PARTICIPATION IN THE LOCAL
MONEY PURCHASE PLAN AND TO PARTICIPATE IN THE STATEWIDE HYBRID
PLAN AND ALL OF THE EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE
DATE OF COVERAGE UNDER THE STATEWIDE HYBRID PLAN THAT MEET THE
DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4), SHALL
BE INCLUDED IN THE EMPLOYER'S APPLICATION FOR COVERAGE UNDER THE
STATEWIDE HYBRID PLAN.

(4) The board shall promulgate rules relating to standards for
disclosure of all ramifications and procedures for obtaining member
approval pursuant to subsection (3) of this section OR FOR ALLOWING
ACTIVE MEMBERS TO JOIN THE STATEWIDE HYBRID PLAN PURSUANT TO
SUBSECTION (3.5) OF THIS SECTION. The board shall also promulgate rules
relating to standards for granting an employer's application for
participation in the statewide hybrid plan and for the submission of
information to the board by the employer. Such rules shall contain a
provision specifying that an employer that opts to participate in the
statewide hybrid plan shall not be permitted to opt out of such plan at any
later date.

(5) An application for coverage under the statewide hybrid plan
filed by an employer who administers a local money purchase plan shall
include the employer's certification to the board:

(c) That all active fire and police participants in the local money
purchase plan AND ALL EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE
DATE OF COVERAGE UNDER THE STATEWIDE HYBRID PLAN THAT MEET THE
DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4), will
become participants in the statewide hybrid plan, EXCEPT AS MAY BE
ALLOWED IN SUBSECTION (3.5) OF THIS SECTION;
(6) An application for coverage under the statewide hybrid plan filed by an employer who participates in the statewide money purchase plan shall include the employer's certification to the board that:

(a) All active fire and police participants in the statewide money purchase plan AND ALL EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE HYBRID PLAN THAT MEET THE DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4), will become participants in the statewide hybrid plan, EXCEPT AS MAY BE ALLOWED IN SUBSECTION (3.5) OF THIS SECTION;

SECTION 2. 31-31-1103 (1) (a), (1) (b), (1) (c), (1) (d), (1) (e) (III), and (1) (f) (I), Colorado Revised Statutes, are amended, and the said 31-31-1103 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

31-31-1103. Entry into the statewide defined benefit plan.

(1) (a) Any employer who has established a local money purchase plan pursuant to part 6 of this article or article 30.5 of this title or has withdrawn into the statewide money purchase plan pursuant to part 5 of this article may apply to the board to cover SOME OR ALL OF the members of its money purchase plan and its future members under the statewide defined benefit plan pursuant to part 4 of this article. An application may be initiated by filing with the board a resolution adopted by the employer pursuant to paragraph (b) of this subsection (1) no less than six months prior to the proposed effective date of coverage under the statewide defined benefit plan, unless a shorter waiting period is approved by the board.

(b) The employer's resolution applying for coverage under the statewide defined benefit plan shall be adopted by the governing body of
the employer and shall state the employer's intent to cover UNDER THE
STATEWIDE DEFINED BENEFIT PLAN SOME OR ALL OF the members of its
money purchase plan under the statewide defined benefit plan AND
EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE DATE OF COVERAGE
UNDER THE STATEWIDE DEFINED BENEFIT PLAN THAT MEET THE
DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4).

(c) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (c.5) OF THIS
SUBSECTION (1), any application for coverage under the statewide defined
benefit plan shall be approved by at least sixty-five percent of all active
members employed by the employer who are participating in the money
purchase plan at the time of the application.

(c.5) IN LIEU OF AN ELECTION TO OBTAIN THE APPROVAL BY AT
LEAST SIXTY-FIVE PERCENT OF ALL ACTIVE MEMBERS AS REQUIRED BY
PARAGRAPH (c) OF THIS SUBSECTION (1), THE EMPLOYER MAY GIVE EACH
ACTIVE LOCAL PLAN MEMBER THE OPTION TO DISCONTINUE PARTICIPATION
IN THE LOCAL MONEY PURCHASE PLAN AND TO PARTICIPATE IN THE
STATEWIDE DEFINED BENEFIT PLAN. THE OFFER SHALL BE A ONE-TIME
EVENT AND SHALL BE EXTENDED TO ALL ACTIVE LOCAL PLAN MEMBERS
EMPLOYED BY THE EMPLOYER AT THE TIME OF THE OFFER. ACTIVE LOCAL
PLAN MEMBERS THAT CHOOSE TO DISCONTINUE PARTICIPATION IN THE
LOCAL MONEY PURCHASE PLAN AND TO PARTICIPATE IN THE STATEWIDE
DEFINED BENEFIT PLAN AND ALL OF THE EMPLOYEES HIRED ON OR AFTER
THE EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE DEFINED
BENEFIT PLAN THAT MEET THE DEFINITION OF A MEMBER, AS DEFINED IN
SECTION 31-31-102 (4), SHALL BE INCLUDED IN THE EMPLOYER'S
APPLICATION FOR COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT
PLAN.
(d) The board shall promulgate rules relating to standards for disclosure of all ramifications and procedures for obtaining the member approval described in paragraph (c) of this subsection (1) OR FOR ALLOWING ACTIVE MEMBERS TO CHANGE PLANS PURSUANT TO PARAGRAPH (c.5) OF THIS SUBSECTION (1). The board shall also promulgate rules relating to standards for granting an employer's application for participation in the statewide defined benefit plan and for the submission of information to the board by the employer.

(e) An application for coverage under the statewide defined benefit plan filed by an employer who administers a local money purchase plan shall include the employer's certification to the board that:

(III) All active fire and police participants in the local money purchase plan AND ALL EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT PLAN WHO MEET THE DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4), will become participants in the statewide defined benefit plan, EXCEPT AS MAY BE ALLOWED IN PARAGRAPH (c.5) OF THIS SUBSECTION (1);

(f) An application for coverage under the statewide defined benefit plan filed by an employer who participates in the statewide money purchase plan shall include the employer's certification to the board that:

(I) All active fire and police participants in the statewide money purchase plan AND ALL EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT PLAN WHO MEET THE DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4), will become participants in the statewide defined benefit plan, EXCEPT AS MAY BE ALLOWED UNDER PARAGRAPH (c.5) OF THIS SUBSECTION (1);
SECTION 3. 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 (August 9, 2006, if adjournment sine die is on May 10, 2006); 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.
CONCERNING THE PARTIAL ENTRY INTO THE FIRE AND POLICE PENSION ASSOCIATION DEFINED BENEFIT SYSTEM BY MEMBERS OF MONEY PURCHASE PLANS WHERE ALL FUTURE ELIGIBLE EMPLOYEES ARE REQUIRED TO PARTICIPATE IN THE DEFINED BENEFIT SYSTEM.

Summary of Legislation

Under current law, an application to join the Fire and Police Pension Association (FPPA) statewide defined benefit plan or statewide hybrid plan must include all active members who participate in the local money purchase plan and must be approved by at least 65 percent of the employer's active members. This bill establishes an alternative to allow partial entry into an FPPA plan. Under a partial entry, all employees hired after the FPPA coverage becomes effective will also become participants in the FPPA system.

Local Government Impact

The bill allows firefighters and police officers who participate in a local money purchase plan to join the FPPA defined benefit plan or hybrid plan or to remain in the local plan, without affecting all other existing employees. Any additional police officer and firefighter retirement benefit costs
to local governments will be optional since participation in the FPPA plans under the bill is voluntary.

Fire and Police Pension Association Impact

It is anticipated that the new partial entry option can be implemented by the FPPA within existing resources. As such, the bill will not affect expenditures of the state or the FPPA.

State Appropriations

No new state appropriations are required to implement the bill.

Departments Contacted

Fire and Police Pension Association