

University of Denver

Digital Commons @ DU

All Publications (Colorado Legislative Council)

Colorado Legislative Council Research
Publications

12-2007

0570 Interim Committee on Police Officers' and Firefighters' Pension Reform Commission

Colorado Legislative Council

Follow this and additional works at: https://digitalcommons.du.edu/colc_all

Recommended Citation

Colorado Legislative Council, "0570 Interim Committee on Police Officers' and Firefighters' Pension Reform Commission" (2007). *All Publications (Colorado Legislative Council)*. 603.
https://digitalcommons.du.edu/colc_all/603

This Article is brought to you for free and open access by the Colorado Legislative Council Research Publications at Digital Commons @ DU. It has been accepted for inclusion in All Publications (Colorado Legislative Council) by an authorized administrator of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

**0570 Interim Committee on Police Officers' and Firefighters' Pension Reform
Commission**



**Report to the
Colorado General Assembly**

**Interim Committee on
Police Officers' and Firefighters'
Pension Reform Commission**

*The Colorado Legislative Council
Research Publication No. 570
December 2007*

Police Officers' and Firefighters' Pension Reform Commission

Members of the Committee

Representative Mike Cerbo, Chair
Senator John Morse, Vice-Chair

Representative Debbie Benefield	Senator Ken Kester
Representative Edward Casso	Senator Jack Taylor
Representative Stella Garza Hicks	Senator Lois Tochtrop
Representative Steve King	Senator Suzanne Williams
Representative Larry Liston	
Representative Cherylin Peniston	
Representative Joe Rice	
Representative Jim Riesberg	
Representative Rob Witwer	

Legislative Council Staff

Ron Kirk, Economist II

Office of Legislative Legal Services

Ed DeCecco, Senior Staff Attorney
Nicole Myers, Senior Staff Attorney

COLORADO GENERAL ASSEMBLY

EXECUTIVE COMMITTEE

Sen. Peter Groff, Chairman
Rep. Andrew Romanoff, Vice
Chairman
Sen. Ken Gordon
Sen. Andy McElhany
Rep. Alice Madden
Rep. Mike May



COMMITTEE

Sen. Greg Brophy
Sen. Mike Kopp
Sen. Brandon Shaffer
Sen. Nancy Spence
Sen. Lois Tochtrop
Sen. Sue Windels
Rep. David Balmer
Rep. Morgan Carroll
Rep. Michael Garcia
Rep. Cory Gardner
Rep. Andy Kerr
Rep. Amy Stephens

STAFF

Kirk Mlinek, Director
Daniel Chapman, Assistant Director,
Administration
Deborah Godshall, Assistant Director,
Research

LEGISLATIVE COUNCIL

ROOM 029 STATE CAPITOL
DENVER, COLORADO 80203-1784
E-mail: lcs.ga@state.co.us

303-866-3521 FAX: 303-866-3855 TDD: 303-866-3472

December 2007

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, 2007, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2008 session was approved.

Respectfully Submitted,

/s/ Senator Peter Groff
Chairman

Table of Contents

	Page
Committee Charge	1
Committee Activities	3
Funding Ratio for Plans	4
Adjustment In COLA Calculation for Statewide Defined Benefit Plan	4
Measures To Ensure Proper Pension Payments	5
Summary of Recommendations	7
Bill A — The Redetermination of Benefits Payable Under the Fire and Police Pension Association's Statewide Defined Benefit Plan for New Hire Members, and, in Connection Therewith, Establishing Limits On Such Benefit	7
Text of Bill A	11
Bill B — Measures To Ensure Proper Pension Payments	7
Text of Bill B	17
Resource Materials	9

This report is also available on line at:

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2007/07interim.htm

Committee Charge

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 commission is comprised of five members of the Senate, and ten members of the House of Representatives. 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.

Fire and Police Pension Association of Colorado. 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. The FPPA also administers local defined benefit pension funds for police officers and firefighters hired prior to April 8, 1978, whose employers have elected to affiliate with the FPPA.

Committee Activities

The commission held one meeting during the 2007 interim. At the meeting, the commission received a historical overview from the FPPA on the state's involvement in fire and police pension plans, an overview of the membership and types of plans available to members, and details about recent investment performance. Fund performance was discussed in terms of net asset increases and funding ratios.

FPPA investment funds. The FPPA administers the Fire & Police Members' Benefit Investment Fund and the Fire & Police Members' Self-Directed Investment Fund. The total market value of the pension fund's investment portfolio increased from \$2.9 billion at the close of 2005 to \$3.3 billion in 2006, for an increase of \$401.9 million (13.8 percent). The Benefit Investment Fund includes the assets of the following:

- the Defined Benefit System;
- the Statewide Death & Disability Plan; and
- the numerous separate Local "Old Hire" and Volunteer Fire pension funds.

Included in the Defined Benefit System are the Statewide Defined Benefit Plan, the Statewide Hybrid Plan, and the Exempt Plans. The Self-Directed Investment Fund consists of the portion of assets that are designated for self-direction by the members in the following plans:

- the Defined Benefit System;
- the Local "Old Hire" pension funds;
- the Statewide Money Purchase Plan;
- the affiliated Fire and Police Members' Money Purchase Plan; and
- the Fire and Police Members' Deferred Compensation Plans.

Table 1 shows net asset increases by plan for 2006 over prior year assets.

Table 1: Net Asset Increases By Plan for 2006

Plan Net Assets	Increase (in millions)
Defined Benefit System	\$412.8
Statewide Death & Disability Plan	\$32.3
Affiliated Local Plans	(\$55.2)
Money Purchase Plans	\$1.4
Self-Directed Assets for Affiliated Local and Defined Benefit System Plans	\$2.2
Deferred Compensation Plan	\$8.4
Total Increase in Plan Net Assets	\$401.9

Funding ratios for investment plans. FPPA investment funds include the assets of the Statewide Death and Disability Plan, the Defined Benefit System, plus 52 Local "Old Hire" and 171 Volunteer Fire pension plans.

The Statewide Death and Disability Plan is a multi-employer cost-sharing defined benefit plan covering full-time employees of substantially all fire and police departments in Colorado. As of August 1, 2003, the plan may include part-time police and fire department employees. Contributions to the plan are used solely for the payment of death and disability benefits.

The Defined Benefit System is a multi-employer cost-sharing, defined benefit pension plan covering substantially all full-time employees of participating fire or police departments in Colorado hired after April 8, 1978 (New Hires). As of August 1, 2003, the plan may include clerical and other personnel from fire departments whose services are auxiliary to fire protection. Currently, the plan has 188 participating employers.

The Defined Benefit System Statewide Hybrid Plan was established in 2004 and is a multi-employer cost-sharing pension plan covering full-time firefighters and police officers from departments that elect coverage. The plan may also cover clerical staff or other personnel from fire departments whose services are auxiliary to fire protection. The plan currently has 13 participating employers.

The Defined Benefit System, Exempt Plans joined the Defined Benefit System in 2006 and covers fire and police employees hired after April 8, 1978, but are closed to new members as of October 1, 2006. As of January 1, 2006, the funding ratio (actuarial value of assets divided by actuarial accrued liability) for each of the funds is shown in Table 2.

Table 2: Funding Ratio for Plans

Plan	Funding Ratio (January 1, 2006)
Statewide Death & Disability	96.4%
Defined Benefit System — Statewide Defined Benefit Plan	119.5%
Defined Benefit System — Statewide Hybrid Plan	149.0%
Defined Benefit System — Exempt Plans	N/A*

*Data to calculate gain/loss analysis was not available as of the 1/1/06 actuarial valuations.

Change in the cost of living adjustment (COLA) calculation for the Statewide Defined Benefit Plan. The FPPA discussed the need for legislation that would change the limit on board-determined ad hoc discretionary annual COLAs for the Statewide Defined Benefit Plan. The proposal would change the limit from 3 percent to the higher of 3 percent or the change in the consumer price index (CPI-w). Thus, in times of high inflation, the board would have additional flexibility to award a COLA that exceeds the 3 percent cap in current law and allow COLA adjustments to keep pace with higher inflation levels. The proposal would be effective October 1, 2008, and each year thereafter and is generally applicable to firefighters and police officers hired after April 8, 1978.

For clarification purposes, the FPPA noted that the legislation does not set a requirement that the board award a COLA increase. Thus, if the board determines that a plan's funding level is not sufficient to fully-fund a COLA increase, the board does not have to allow the COLA for the given year.

Measures to ensure proper pension payments. The FPPA also discussed the need for legislation that would clarify the board's authority to review awards of benefits and benefit payments for mistakes, errors, overpayments, or fraud. The FPPA noted that such legislation is needed because under current law, the penalty for making false statements to obtain benefits, is not covered by any specific statute but generally falls under Colorado's fraud statute. The FPPA noted that to address the fraud issue, this legislation would establish that making a false statement or representation in order to obtain benefits, is a Class 5 felony.

Summary of Recommendations

As a result of commission discussion and deliberation, the commission recommends two bills for consideration in the 2008 legislative session.

Bill A — The Redetermination of Benefits Payable Under the Fire and Police Pension Association's Statewide Defined Benefit Plan for New Hire Members, and, in Connection Therewith, Establishing Limits on Such Benefit Increases

Bill A changes the limit on board-determined ad hoc discretionary annual cost of living adjustments (COLAs) for the Statewide Defined Benefit Plan. The bill changes the limit from 3 percent to the higher of 3 percent or the change in the consumer price index (CPI-w). This change is effective October 1, 2008, and each year thereafter and is generally applicable to firefighters and police officers hired after April 8, 1978.

Bill B — Measures to Ensure the Proper Payment of Fire and Police Pension Benefits

Bill B clarifies the board's authority to:

- review awards of benefits and benefit payments for mistakes, errors, overpayments, or fraud;
- terminate, reduce, or increase payments upon finding an error, mistake, overpayment, or fraud;
- order repayment of overpayments;
- provide for methods of collection of overpayments; and
- provide for the termination of benefits under the Statewide Death and Disability Plan for non-compliance with plan requirements.

Bill B also establishes that making a false statement or representation in order to obtain benefits, is a class 5 felony.

Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2007/07interim.htm

Meeting Date and Topics Discussed

September 11, 2007

- ♦ Historical overview, membership information, investment performance, and proposed legislation.

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

BILL A

LLS NO. 08-0178.01 Nicole Myers

HOUSE BILL

HOUSE SPONSORSHIP

Riesberg, Benefield, and Rice

SENATE SPONSORSHIP

Tochtrop, Morse, and Williams

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REDETERMINATION OF BENEFITS PAYABLE UNDER**
102 **THE FIRE AND POLICE PENSION ASSOCIATION'S STATEWIDE**
103 **DEFINED BENEFIT PLAN FOR NEW HIRE MEMBERS, AND, IN**
104 **CONNECTION THEREWITH, ESTABLISHING LIMITS ON SUCH**
105 **BENEFIT INCREASES.**

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. Modifies how the board of directors of the fire and police pension association may increase the benefits payable under statewide defined

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.

benefit plans for members of the association hired on or after April 8, 1978.

Makes a conforming amendment.

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

2 **SECTION 1.** 31-31-407 (1), (2), and (3), Colorado Revised
3 Statutes, are amended, and the said 31-31-407 is further amended BY
4 THE ADDITION OF A NEW SUBSECTION, to read:

5 **31-31-407. Adjustment of benefits.** (1) The benefits payable
6 under the statewide defined benefit plan established by this part 4 shall
7 MAY be redetermined effective October 1 each year. and IF SUCH
8 BENEFITS ARE REDETERMINED, such redetermined amount shall be payable
9 for the following twelve months. To be eligible for redetermination, such
10 benefits shall have been paid for at least twelve calendar months prior to
11 the effective date of redetermination. ~~The annual~~ ANY redetermination
12 of benefits made pursuant to this section shall be in lieu of any other
13 annual cost of living adjustment.

14 (2) ~~(a) Subject to the limitations contained in subsection (3) of this~~
15 ~~section, the redetermination of benefits payable under subsection (1) of~~
16 ~~this section shall be computed as follows: The amount of the benefit on~~
17 ~~the effective date of the benefit shall be increased by a percentage to be~~
18 ~~determined by the board but no more than three percent for each full year~~
19 ~~contained in the period commencing with the effective date of the benefit~~
20 ~~and ending with the effective date of the redetermination.~~

21 ~~(b) (Deleted by amendment, L. 2002, p. 173, § 2, effective~~
22 ~~October 1, 2002.)~~

23 (3) ~~(a) In no event shall the redetermined amount provided for in~~
24 ~~subsection (2) of this section be:~~

1 ~~(I) Less than the amount of the benefit on the effective date of the~~
2 ~~benefit; or~~

3 ~~(II) More than the amount of the benefit on the effective date of~~
4 ~~the benefit multiplied by a fraction, the numerator of which shall be the~~
5 ~~average of the consumer price index for the twelve months in the calendar~~
6 ~~year immediately preceding the effective date of the redetermination and~~
7 ~~the denominator of which shall be the average of the consumer price~~
8 ~~index for the twelve months in the calendar year immediately preceding~~
9 ~~the effective date of the benefit. In no event shall the numerator of the~~
10 ~~fraction be less than the denominator.~~

11 ~~(b) As used in paragraph (a) of this subsection (3), the term~~
12 ~~"consumer price index" means the national consumer price index for~~
13 ~~urban wage earners and clerical workers prepared by the United States~~
14 ~~department of labor. Such consumer price index shall be deemed to have~~
15 ~~such base period as is in effect January 1, 1969.~~

16 (5) (a) EFFECTIVE OCTOBER 1, 2008, AND EACH YEAR
17 THEREAFTER, ANY REDETERMINATION OF BENEFITS MADE PURSUANT TO
18 SUBSECTION (1) OF THIS SECTION SHALL BE DETERMINED BY THE BOARD
19 IN ITS DISCRETION AS A FIDUCIARY OF THE STATEWIDE DEFINED BENEFIT
20 PLAN AFTER CONSIDERING THE FUNDING LEVEL OF THE PLAN, THE COST OF
21 SUCH INCREASE, WHETHER THE INCREASE CREATES AN ADVERSE
22 ACTUARIAL IMPACT ON THE PLAN'S ABILITY TO FUND FUTURE BENEFITS,
23 AND ANY OTHER FACTORS THE BOARD DEEMS APPROPRIATE. THE
24 REDETERMINED BENEFITS SHALL NOT EXCEED THE GREATER OF :

1 (I) ONE HUNDRED THREE PERCENT OF THE BENEFITS PAID FOR THE
2 PRIOR TWELVE-MONTH PERIOD; OR

3 (II) THE BENEFITS PAID DURING THE PRIOR TWELVE-MONTH PERIOD
4 MULTIPLIED BY A FRACTION USING THE CONSUMER PRICE INDEX FOR THE
5 IMMEDIATELY PRECEDING CALENDAR YEAR AS THE NUMERATOR AND THE
6 CONSUMER PRICE INDEX FOR THE CALENDAR YEAR PRIOR TO THE
7 IMMEDIATELY PRECEDING CALENDAR YEAR AS THE DENOMINATOR .

8 (b) AS USED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS
9 SUBSECTION (5), THE TERM "CONSUMER PRICE INDEX" MEANS THE
10 NATIONAL CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND
11 CLERICAL WORKERS PREPARED BY THE UNITED STATES DEPARTMENT OF
12 LABOR.

13 **SECTION 2.** 31-30.5-209 (4) (c), Colorado Revised Statutes, is
14 amended to read:

15 **31-30.5-209. Idle funds.** (4) (c) If a plan fund does not provide
16 any type of cost-of-living benefit to persons receiving benefits from the
17 plan fund, the assets in the plan fund shall be used to provide an annual
18 adjustment to the pension benefits for such persons prior to using the
19 excess balance in the plan fund as provided in paragraph (a) of this
20 subsection (4) and prior to purchasing annuities as provided in paragraph
21 (b) of this subsection (4). The minimum annual adjustment shall be
22 calculated in the same manner as the annual adjustment to total disability
23 benefits provided for members of the statewide death and disability plan
24 pursuant to ~~sections 31-31-407 (3) and~~ SECTION 31-31-803 (6) (b) (II);
25 except that the effective date of the benefit for purposes of the formula
26 AMOUNT set forth in said ~~sections~~ SECTION shall be the date on which the
27 board provides the annual adjustment required under this paragraph (c).

28 **SECTION 3. Effective date.** This act shall take effect at 12:01

1 a.m. on the day following the expiration of the ninety-day period after
2 final adjournment of the general assembly that is allowed for submitting
3 a referendum petition pursuant to article V, section 1 (3) of the state
4 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
5 except that, if a referendum petition is filed against this act or an item,
6 section, or part of this act within such period, then the act, item, section,
7 or part, if approved by the people, shall take effect on the date of the
8 official declaration of the vote thereon by proclamation of the governor.

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

BILL B

LLS NO. 08-0188.01 Ed DeCecco

SENATE BILL

SENATE SPONSORSHIP

Tochtrop,

HOUSE SPONSORSHIP

Rice, Benefield, and Casso

Senate Committees

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO ENSURE THE PROPER PAYMENT OF FIRE
102 AND POLICE PENSION BENEFITS.

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.
Establishes penalties related to fire and police pension death and disability survivor benefits for a member who, as otherwise required by law, fails to submit to a medical examination or fails to provide information to the board of directors of the fire and police pension association (board) or its designee.

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

Permits the board to review a fire and police pension award of benefits or a benefit payment under any benefit plan in the defined benefit system, the statewide money purchase plan, or the statewide death and disability plan for the purpose of determining whether there has been fraud, an overpayment, an error, or a mistake. Permits the board to review a benefit payment under any other benefit plan or compensation plan that the board administers for the purpose of determining whether there has been an overpayment, an error, or a mistake. If there is a finding by a preponderance of the evidence of fraud, an overpayment, an error, or a mistake, establishes consequences and procedures related thereto, including the right in certain circumstances for the fire and police pension association to have its order recorded as a judgment in a district court.

Makes it a class 5 felony to willfully make a false statement or representation material to a benefit claim for the purpose of obtaining any type of pension payment.

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

SECTION 1. Part 8 of article 31 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-31-814. Suspension and termination of benefits for noncompliance. IF A MEMBER REFUSES TO SUBMIT TO A MEDICAL EXAMINATION REQUIRED BY THE FIRE AND POLICE PENSION ASSOCIATION AND AUTHORIZED BY THIS PART 8, FAILS TO PROVIDE INFORMATION NECESSARY FOR THE ASSOCIATION TO ASSESS ELIGIBILITY OR CONTINUING ELIGIBILITY FOR BENEFITS, OR OBSTRUCTS THE ASSOCIATION FROM RECEIVING SUCH NECESSARY INFORMATION , ALL RIGHTS TO COLLECT OR TO BEGIN OR MAINTAIN ANY PROCEEDING FOR THE COLLECTION OF BENEFITS PURSUANT TO THIS PART 8 SHALL BE SUSPENDED, AND ALL RIGHTS TO BENEFITS THAT ACCRUE AND BECOME PAYABLE DURING THE PERIOD OF SUCH REFUSAL OR OBSTRUCTION SHALL BE BARRED. IF THE MEMBER CONTINUES TO REFUSE TO SUBMIT TO THE EXAMINATION OR TO PROVIDE THE ADDITIONAL INFORMATION AFTER DIRECTION BY THE BOARD

1 OR ITS HEARING OFFICER OR IN ANY WAY OBSTRUCTS THE SAME, THE
2 BOARD SHALL TERMINATE THE BENEFIT .

3 **SECTION 2.** Article 31 of title 31, Colorado Revised Statutes, is
4 amended BY THE ADDITION OF A NEW PART to read:

5 **PART 12**

6 **ENSURING PROPER PAYMENTS**

7 **31-31-1201. Review of award of benefits and benefit**
8 **payments.** (1) AT ANY TIME, THE BOARD MAY REVIEW AN AWARD OF
9 BENEFITS OR A BENEFIT PAYMENT UNDER ANY BENEFIT PLAN IN THE
10 DEFINED BENEFIT SYSTEM, THE STATEWIDE MONEY PURCHASE PLAN, OR
11 THE STATEWIDE DEATH AND DISABILITY PLAN FOR THE PURPOSE OF
12 DETERMINING WHETHER THERE HAS BEEN FRAUD, AN OVERPAYMENT, AN
13 ERROR, OR A MISTAKE .

14 (2) AT ANY TIME, THE BOARD MAY REVIEW A BENEFIT PAYMENT
15 UNDER ANY BENEFIT PLAN OR COMPENSATION PLAN OTHER THAN THE
16 PLANS IDENTIFIED IN SUBSECTION (1) OF THIS SECTION THAT THE BOARD
17 ADMINISTERS FOR THE PURPOSE OF DETERMINING WHETHER THERE HAS
18 BEEN AN OVERPAYMENT , AN ERROR, OR A MISTAKE .

19 (3) BASED UPON A PREPONDERANCE OF THE EVIDENCE FROM THE
20 REVIEW AUTHORIZED BY THIS SECTION , THE BOARD :

21 (a) MAY DETERMINE THAT A BENEFIT PAYMENT BE TERMINATED,
22 DIMINISHED, MAINTAINED, OR INCREASED ;

23 (b) MAY ORDER A MEMBER OR BENEFICIARY TO REPAY ANY
24 OVERPAYMENTS ; OR

25 (c) SHALL ORDER THE TERMINATION OF BENEFITS AND THE
26 REPAYMENT OF PAST BENEFITS PAID TO A MEMBER OR BENEFICIARY WHERE
27 THE BOARD FINDS THAT THE BENEFITS WERE GRANTED BASED ON FALSE
28 REPRESENTATIONS OR A WILLFUL FAILURE TO DISCLOSE A MATERIAL FACT .

1 (4) THE BOARD SHALL ADOPT RULES ESTABLISHING PROCEDURES
2 FOR THE REVIEW OF BENEFITS AND PAYMENTS. THE BOARD MAY
3 DELEGATE THE REVIEW PURSUANT TO THE RULES. ANY RULES
4 ESTABLISHED BY THE BOARD SHALL PROVIDE THAT A MEMBER OR
5 BENEFICIARY SHALL HAVE THE OPPORTUNITY TO APPEAL ANY ADVERSE
6 ACTION TO THE BOARD FOR A FINAL DETERMINATION .

7 (5) ANY APPEAL OF A FINAL DETERMINATION BY THE BOARD SHALL
8 BE IN ACCORDANCE WITH RULE 106 (a) (4) OF THE COLORADO RULES OF
9 CIVIL PROCEDURE.

10 **31-31-1202. Collection of overpaid benefits.** (1) THE BOARD
11 SHALL INSTITUTE PRACTICES AND PROCEDURES AS IT DEEMS NECESSARY
12 TO COLLECT MONEY DUE A PLAN ADMINISTERED BY THE FIRE AND POLICE
13 PENSION ASSOCIATION AS DETERMINED IN SECTION 31-31-1201,
14 INCLUDING BUT NOT LIMITED TO WITHHOLDING SUBSEQUENT BENEFIT
15 PAYMENTS TO WHICH THE MEMBER OR BENEFICIARY IS OR BECOMES
16 ENTITLED, APPLYING THE AMOUNT WITHHELD AS AN OFFSET AGAINST THE
17 AMOUNT DUE, AND REFERRING AN ACCOUNT TO A COLLECTION AGENCY OR
18 ATTORNEY FOR COLLECTION. IF, AFTER DUE NOTICE, ANY MEMBER OR
19 BENEFICIARY DEFAULTS IN ANY REPAYMENT OF OVERPAID BENEFITS, THE
20 AMOUNT DUE MAY BE COLLECTED BY CIVIL ACTION, WHICH SHALL
21 INCLUDE THE RIGHT OF ATTACHMENT IN THE NAME OF THE ASSOCIATION.
22 THE BOARD MAY ALLOW INSTALLMENT PAYMENTS OF AMOUNTS DUE
23 BASED ON EQUITABLE CONSIDERATIONS .

24 (2) REASONABLE FEES FOR COLLECTION, INCLUDING ATTORNEY
25 FEES, AS DETERMINED BY THE FIRE AND POLICE PENSION ASSOCIATION,
26 SHALL BE ADDED TO THE AMOUNT OF DEBT. THE DEBTOR SHALL BE LIABLE
27 FOR REPAYMENT OF THE TOTAL OF THE AMOUNT OUTSTANDING PLUS THE
28 COLLECTION FEE.

1 (3) A CERTIFIED COPY OF ANY FINAL DETERMINATION OF THE
2 BOARD ORDERING THE REPAYMENT OF OVERPAYMENTS PURSUANT TO THIS
3 ARTICLE MAY BE FILED WITH THE CLERK OF THE DISTRICT COURT OF ANY
4 JUDICIAL DISTRICT IN THIS STATE AT ANY TIME AFTER THE PERIOD
5 PROVIDED FOR APPEAL OR SEEKING REVIEW OF THE ORDER HAS PASSED
6 WITHOUT APPEAL OR REVIEW BEING SOUGHT OR, IF APPEAL OR REVIEW IS
7 SOUGHT, AFTER THE ORDER HAS BEEN FINALLY AFFIRMED AND ALL
8 APPELLATE REMEDIES AND ALL OPPORTUNITIES FOR REVIEW HAVE BEEN
9 EXHAUSTED. THE FIRE AND POLICE PENSION ASSOCIATION SHALL AT THE
10 SAME TIME FILE A CERTIFICATE TO THE EFFECT THAT THE TIME FOR APPEAL
11 OR REVIEW HAS PASSED WITHOUT APPEAL OR REVIEW BEING UNDERTAKEN
12 OR THAT THE ORDER HAS BEEN FINALLY AFFIRMED WITH ALL APPELLATE
13 REMEDIES AND ALL OPPORTUNITIES FOR REVIEW HAVING BEEN
14 EXHAUSTED. THE CLERK OF THE DISTRICT COURT SHALL RECORD THE
15 ORDER AND THE ASSOCIATION'S CERTIFICATE IN THE JUDGMENT BOOK OF
16 SAID COURT AND ENTRY THEREOF MADE IN THE JUDGMENT DOCKET, AND
17 IT SHALL THEREAFTER HAVE ALL THE EFFECT OF A JUDGMENT OF THE
18 DISTRICT COURT, AND EXECUTION MAY ISSUE THEREON OUT OF SAID
19 COURT AS IN OTHER CASES. ANY SUCH ORDER MAY BE FILED BY AND IN
20 THE NAME OF THE ASSOCIATION .

21 **31-31-1203. False statement - felony.** IF, FOR THE PURPOSE OF
22 OBTAINING ANY ORDER, BENEFIT, AWARD, COMPENSATION, OR PAYMENT
23 UNDER THE PROVISIONS OF ARTICLES 30, 30.5, AND 31 OF THIS TITLE,
24 EITHER FOR SELF-GAIN OR FOR THE BENEFIT OF ANY OTHER PERSON,
25 ANYONE WILLFULLY MAKES A FALSE STATEMENT OR REPRESENTATION
26 MATERIAL TO THE CLAIM, SUCH PERSON COMMITS A CLASS 5 FELONY AND
27 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401, C.R.S., AND
28 SHALL FORFEIT ALL RIGHT TO COMPENSATION UNDER SAID ARTICLES UPON

1 CONVICTION OF SUCH OFFENSE .

2 **SECTION 3. Effective date.** This act shall take effect at 12:01
3 a.m. on the day following the expiration of the ninety-day period after
4 final adjournment of the general assembly that is allowed for submitting
5 a referendum petition pursuant to article V, section 1 (3) of the state
6 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
7 except that, if a referendum petition is filed against this act or an item,
8 section, or part of this act within such period, then the act, item, section,
9 or part, if approved by the people, shall take effect on the date of the
10 official declaration of the vote thereon by proclamation of the governor.