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0608 Police Officers' and Firefighters' Pension Reform Commission



**Report to the
Colorado General Assembly**

**Police Officers' and
Firefighters' Pension Reform
Commission**

Prepared by

*The Colorado Legislative Council
Research Publication No. 608
December 2011*

Police Officers' and Firefighters' Pension Reform Commission

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December 2011

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December 2011

To Members of the Sixty-eighth General Assembly:

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

At its meeting on November 8, 2011, the Legislative Council reviewed the summary report of this committee. A motion to forward this report and the bills therein for consideration in the 2012 session was approved.

Sincerely,

/s/ Senator Brandon Shaffer
 Chairman

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This report is also available online at:

<http://www.colorado.gov/lcs/PoliceandFirefightersPensionReform>

Commission Charge

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 the state and the benefit designs of the 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; and
- the volunteer firefighter pension system.

Commission Activities

The commission held one meeting during the 2011 interim. At this meeting, the commission received a historical overview of the state's involvement in fire and police pension plans. The commission was also briefed on recent activities of the FPPA Board of Directors and discussions regarding making the administration of the pension plans more efficient. Also discussed were the pension plan membership, types of plans available to members, and details about recent investment performance.

Recent investment performance. The commission heard that net investment assets totaled \$3.4 billion at the close of 2010. The performance of investments was much improved over 2009 and saw a greater fund performance in relation to 2008, the worst year for fund performance in the history of the FPPA. For example, the Fire and Police Members' Benefit Investment Fund (\$3.1 billion of total \$3.4 billion) had a total net return of 13.7 percent for the one-year period ending December 31, 2010. The fund is divided largely between equity investments (58.1 percent) and fixed income (21.3 percent) accounts. Other investment areas include private capital, real estate, and cash and short-term investments. Presently, in the Defined Benefit System, there are no unfunded current liabilities under the Statewide Defined Benefit Plan and the Statewide Hybrid Plan.

Payments to the FPPA Old-hire Pension Plan. The committee was given a brief summary about the state's requirement to make payments to the FPPA Old-hire Pension Plan. In 1978 and 1979, the state enacted legislation to reform local pension plans for police officers and firefighters hired prior to April 8, 1978 (old hires). The purpose of the reform was to ensure that local pension plans were actuarially sound, and included state financial assistance conditioned on increases in both employer and employee contributions. The state currently provides assistance to eight old-hire plans under the management of the FPPA. Since 1980, the state has contributed a total of \$515 million to 110 local police and fire agencies.

Background and history. Since 1980, the legislature has suspended payments to the FPPA Old-hire Pension Plan four times. The first year that the annual state contribution was suspended was in 1987. In 1995, the state contribution was increased to cover the 1987 payment plus accrued interest. In addition, Senate Bill 95-228 increased the annual state contribution from \$18.7 million to the current \$25.3 million obligation. The legislation also provided that state support would end when the local old-hire pension plans became fully funded or in FY 2010-11, whichever came first. Prior to the passage of SB 95-228, it was anticipated that state funding would continue through 2024.

In response to budgetary issues following the recessions of the early decade and late 2007, the General Assembly suspended payments to the FPPA Old-hire Pension Plan several times in the 2000s. The most recent change was under Senate Bill 09-227, which suspended annual state contributions, resuming them beginning in FY 2011-12 through FY 2014-15. Additionally, Senate Bill 11-221 suspended a portion of the annual payment in FY 2011-12 (\$20.0 million of \$25.3 million) and FY 2012-13 (\$15.3 million of \$25.3 million), with full annual payments of \$25.3 million resuming in FY 2013-14 through FY 2017-18. The final estimated payment of \$49.4 million is owed in FY 2018-19, but may be higher or lower depending on investment yields.

Proposed legislation. A representative of the FPPA provided an overview of three bills recommended to the commission by the FPPA Board of Directors for introduction in the 2012 legislative session. According to the board, the goal of the three proposals is to make the administration of the pension plans more efficient and less costly, and to align provisions in different FPPA pension plans with more current policies in federal pension plans.

The commission also heard testimony from the Colorado Press Association about proposed statutory changes concerning investment information and the confidentiality of certain investor information.

Authority of the board to make amendments to plans for the administration of benefits. The chief executive officer and legal counsel of the FPPA discussed issues relating to marital assets and reassignment of benefits. They explained the need to allow the board to address issues such as divorce, remarriage, and the assignment of new beneficiaries. Currently, applying a uniform change to all retirement plans administered by the FPPA could require amending each plan independently according to certain rules, plan documents, or state statutes. They also discussed the need to allow minor changes to individual retirement plans to be administered by the FPPA instead of requiring an election. An election requires that up to 65 percent of the local members participate in an election to approve such changes. Currently, these types of minor changes are not adopted due to the difficulty of getting enough members to participate in an election.

Commission recommendation. As a result of these discussions, the commission recommends Bill A. Bill A authorizes the FPPA board to modify or amend: the Statewide Defined Benefit Plan; a plan document; or rules of a plan within the benefit system in order to comply with state and federal law. Specifically, this bill would enable the FPPA board to apply certain administrative changes to numerous statewide plans that the board oversees. These changes would allow for more consistent and uniform administration of the plans.

Social Security Supplemental Plans. House Bill 06-1068 created the FPPA retirement benefit plan for police officers and firefighters working under local governments that participate in Social Security. Currently, a small number of municipalities and county sheriff departments participate in Social Security, and the FPPA administers a Social Security Supplemental Plan under its statewide plan and under its Statewide Death and Disability Plan.

Commission recommendation. The chief executive officer and legal counsel of the FPPA discussed the need for a bill that repeals provisions of House Bill 06-1068 related to optional affiliation by any employer that covers members under the federal Social Security Act. As a result, the commission recommends Bill B, under which any Social Security employer is limited to electing affiliation with the FPPA only as to coverage under the Statewide Defined Benefit Plan. With one exception, any Social Security employer is allowed to elect coverage under the Statewide Death and Disability Plan if the employer files with the FPPA board a resolution to that effect from the governing body of that Social Security employer.

Investment confidentiality. House Bill 05-1002 revised state law governing certain investment terms and exempted certain investment information provided to the FPPA for investment purposes from the disclosure requirements of the Colorado Open Public Records Act.

Commission recommendation. Bill C amends the provisions guiding investment confidentiality of the FPPA by modifying the definition of "investment information" and replacing the term "portfolio company" with "investment vehicle." According to the FPPA, this statutory change is necessary to protect proprietary information of certain companies contained within investment vehicles utilized by the FPPA.

Summary of Recommendations

As a result of commission deliberations, the commission recommends three bills for consideration during the 2012 legislative session.

Bill A — Authority of the Board to Make Amendments to Plans

Bill A gives the FPPA board authority to make plan amendments to the Statewide Defined Benefit Plan, the Colorado Springs New Hire Plan, the Statewide Hybrid Plan, the Statewide Money Purchase Plan, and the Statewide Death and Disability Plan so that the administration of the plans is more consistent and uniform. Under the bill, modifications or amendments may include changes to the options for the distribution of benefits, but not changes to the amount of a normal benefit.

Bill B — Modifications to Available Affiliation by Social Security Employers

Bill B repeals language regarding the former FPPA retirement benefit plan for police officers and firefighters working under local governments that participate in Social Security. The bill provides for employers participating in the Statewide Defined Benefit Supplemental Social Security Plan to also participate in the Statewide Death and Disability Plan.

Bill C — Modifications to Investment Confidentiality Provisions for Pension Plans

Bill C broadens the scope of private investments that are covered under the statutory protections of confidential and proprietary information from public disclosure. However, the bill requires the name of investment vehicles, the amount invested, and the rate of return on the investments to be reported annually.

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, (303-866-4900). The following meeting summaries, memoranda, and reports are available on our website at:

<http://www.colorado.gov/lcs/PoliceandFirefightersPensionReform>

Meeting Date and Topics Discussed

October 4, 2011

- ◆ FPPA funded status
- ◆ FPPA investment performance
- ◆ FPPA plan benefit structure
- ◆ FPPA membership information
- ◆ FPPA board proposed legislation
- ◆ FPPA history
- ◆ FPPA investment philosophy
- ◆ Commission consideration of proposed legislation

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

BILL A

LLS NO. 12-0065.01 Esther van Mourik x4215

HOUSE BILL

HOUSE SPONSORSHIP

Peniston, Labuda, Duran, Ramirez, Schafer S.

SENATE SPONSORSHIP

Tochtrop, King S., Morse

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF THE BOARD OF THE FIRE AND POLICE**
102 **PENSION ASSOCIATION TO MAKE AMENDMENTS TO PLANS FOR**
103 **THE ADMINISTRATION OF BENEFITS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Police Officers' and Firefighters' Pension Reform Commission.

The board of the fire and police pension association is authorized to make amendments to plans for the administration of benefits, so long as the amendments do not result in an actuarial cost to the plans and the board

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.

DRAFT

deems the amendments prudent and necessary in order to consistently and uniformly manage the plans under the board's administration.

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

2 **SECTION 1.** In Colorado Revised Statutes, 31-31-204, **add** (2.5)
3 as follows:

4 **31-31-204. Defined benefit system.** (2.5) NOTWITHSTANDING
5 SECTION 31-31-408 OR 31-31-1102 (5) OR THE TERMS OF AN AGREEMENT
6 ENTERED INTO PURSUANT TO SECTION 31-31-706 (2), THE BOARD MAY
7 MODIFY OR AMEND THE PLAN PROVISIONS CONTAINED IN PART 4 OF THIS
8 ARTICLE OR A PLAN DOCUMENT OR RULES OF A PLAN WITHIN THE DEFINED
9 BENEFIT SYSTEM AS THE BOARD DEEMS PRUDENT AND NECESSARY TO
10 ADMINISTER BENEFITS UNDER THE PLAN CONSISTENTLY AND UNIFORMLY
11 ACROSS THE DEFINED BENEFIT SYSTEM IN A MANNER THAT DOES NOT
12 RESULT IN AN ACTUARIAL COST TO THE PLAN. SUCH MODIFICATIONS OR
13 AMENDMENTS MAY INCLUDE CHANGES TO THE OPTIONS FOR THE
14 DISTRIBUTION OF BENEFITS. THIS SUBSECTION (2.5) SHALL NOT BE
15 CONSTRUED TO AUTHORIZE MODIFICATION TO THE AMOUNT OF A NORMAL
16 BENEFIT.

17 **SECTION 2.** In Colorado Revised Statutes, 31-31-408, **amend**
18 (1) introductory portion as follows:

19 **31-31-408. Modification of state plan by the board.**
20 (1) Notwithstanding any other provision of this part 4, AND IN ADDITION
21 TO THE AUTHORITY GRANTED IN PART 2 OF THIS ARTICLE, the board may
22 modify the pension benefits and the age and service requirements for
23 pension benefits set forth in this part 4 with respect to the members of the
24 statewide defined benefit plan if:

25 **SECTION 3.** In Colorado Revised Statutes, 31-31-502, **amend**

1 (5) as follows:

2 **31-31-502. Statewide money purchase plan - creation -**
3 **management.** (5) ~~Except with respect to amendments necessary to~~
4 ~~comply with the state and federal law,~~ The board may amend THE
5 PENSION BENEFITS PROVIDED UNDER the statewide money purchase plan
6 document created pursuant to subsection (1) of this section only upon the
7 approval of at least sixty-five percent of the active members of the plan
8 and more than fifty percent of the employers having active members
9 covered by the plan, each employer to be assigned one vote; except that
10 employers having both active police and fire members in the plan shall be
11 assigned two votes. THE BOARD MAY AMEND THE PLAN DOCUMENT,
12 WITHOUT FURTHER APPROVAL, AS IT DEEMS PRUDENT AND NECESSARY TO
13 COMPLY WITH STATE AND FEDERAL LAW OR AS IT DEEMS NECESSARY TO
14 EFFICIENTLY ADMINISTER BENEFITS UNDER THE PLAN.

15 **SECTION 4.** In Colorado Revised Statutes, **add** 31-31-815 as
16 follows:

17 **31-31-815. Amendment of plan provisions.** THE BOARD MAY
18 AMEND THE PROVISIONS FOR DISABILITY AND SURVIVOR BENEFITS UNDER
19 THIS PART 8 AS IT DEEMS PRUDENT AND NECESSARY TO COMPLY WITH
20 STATE AND FEDERAL LAW OR AS IT DEEMS NECESSARY TO EFFICIENTLY
21 ADMINISTER THE BENEFITS UNDER THE PLAN.

22 **SECTION 5.** In Colorado Revised Statutes, 31-31-1102, **amend**
23 (5) as follows:

24 **31-31-1102. Statewide hybrid plan - creation - management.**
25 (5) Except with respect to amendments necessary to comply with state
26 and federal law, INCLUDING AMENDMENTS ADOPTED PURSUANT TO
27 SECTION 31-31-204 (2.5), or AMENDMENTS necessary to maintain the

1 actuarial soundness of the statewide hybrid plan, the board may amend
2 the plan document created pursuant to subsection (1) of this section only
3 upon the approval of at least sixty-five percent of the active members of
4 the plan and more than fifty percent of the employers having active
5 members covered by the plan, each employer to be assigned one vote;
6 except that employers having both active police and fire members in the
7 plan shall be assigned two votes.

8 **SECTION 6. Act subject to petition - effective date.** This act
9 shall take effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly
11 (August 7, 2012, if adjournment sine die is on May 9, 2012); except that,
12 if a referendum petition is filed pursuant to section 1 (3) of article V of
13 the state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part shall not take effect
15 unless approved by the people at the general election to be held in
16 November 2012 and shall take effect on the date of the official
17 declaration of the vote thereon by the governor.

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

BILL B

LLS NO. 12-0066.01 Esther van Mourik x4215

HOUSE BILL

HOUSE SPONSORSHIP

Labuda, Barker, Duran, Gardner B., Liston, Peniston, Ramirez, Schafer S., Scott, Waller

SENATE SPONSORSHIP

Tochtrop, Morse, King S., White

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO AVAILABLE AFFILIATION BY SOCIAL**
102 **SECURITY EMPLOYERS WITH THE FIRE AND POLICE PENSION**
103 **ASSOCIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Police Officers' and Firefighters' Pension Reform Commission.

The bill modifies the social security supplemental plan by repealing provisions related to optional affiliation by any employer that covers members under the federal "Social Security Act", as amended, or any

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Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

county that covers salaried employees whose duties are directly involved with the provision of law enforcement or fire protection, as certified by the county under the federal "Social Security Act", as amended (social security employer).

With one exception, any social security employer is limited to electing affiliation with the fire and police pension association (association) only as to coverage under the statewide defined benefit plan. A social security employer is allowed to elect coverage under the statewide death and disability plan if the social security employer files with the board of directors of the association a resolution to that effect by the governing body of that social security employer.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 31-31-704 as
3 follows:

4 **31-31-704. Optional affiliation by social security employers.**
5 (1) PRIOR TO JANUARY 1, 2007, AND notwithstanding the exemption
6 provided in section 31-31-401 (1) (a), any employer that covers members
7 under the federal "Social Security Act", as amended, or any county that
8 covers salaried employees whose duties are directly involved with the
9 provision of law enforcement or fire protection, as certified by the county
10 under the federal "Social Security Act", as amended, may ~~elect~~ HAVE
11 ELECTED affiliation with the association, either as to coverage under the
12 statewide death and disability plan or as to retirement under the statewide
13 defined benefit plan, or as to both, by filing with the board a resolution of
14 the governing body of such employer, but any such affiliation shall either
15 exclude past service credit or include past service credit funded by
16 contribution levels established by the board. ~~pursuant to subsection (6) of~~
17 ~~this section. The employer may make the election to exclude past service~~
18 ~~credit, but only if such election does not impair any vested rights of~~
19 ~~members.~~

1 (1.5) For purposes of administering to counties affiliated pursuant
2 to this section, any county electing to affiliate shall be included in the
3 definition of "employer" and any covered employee of such county shall
4 be included in the definition of "member".

5 (2) ~~The board shall establish rules as to the procedure for~~
6 ~~affiliation pursuant to this section. An employer eligible for such~~
7 ~~affiliation may request of the board, prior to filing a resolution of~~
8 ~~affiliation, an estimate of the contribution rate necessary to comply with~~
9 ~~the contribution requirements established by this article. Election of~~
10 ~~coverage under the death and disability plan shall be irrevocable.~~

11 (3) ~~If an employer that elects to affiliate as to retirement pursuant~~
12 ~~to this section provides any local defined benefit retirement pension plan~~
13 ~~in addition to social security, each member employed by such employer~~
14 ~~shall elect, not later than sixty days after affiliation, either to remain~~
15 ~~covered under the retirement provisions of such local defined benefit plan~~
16 ~~or to become covered under the retirement provisions of the statewide~~
17 ~~defined benefit plan established by part 4 of this article. If a member fails~~
18 ~~to make such an election for any reason, said member shall be deemed to~~
19 ~~have elected to remain covered under the retirement provisions of the~~
20 ~~local defined benefit plan. A member who elects to become covered~~
21 ~~under the retirement provisions of the statewide defined benefit plan~~
22 ~~established by part 4 of this article shall be deemed to have waived all~~
23 ~~rights to retirement benefits under the local defined benefit plan but shall~~
24 ~~receive full credit for all service credited under the local defined benefit~~
25 ~~plan, and a member electing to remain covered under the local defined~~
26 ~~benefit plan shall not be governed by the provisions of the statewide~~
27 ~~defined benefit plan relating to defined retirement benefits.~~

28 (3.5) ~~If an employer that elects to affiliate as to retirement~~

1 pursuant to this section provides any local defined contribution retirement
2 pension plan in addition to social security, sixty-five percent of the
3 employees eligible to participate in the supplemental statewide defined
4 benefit plan shall approve the affiliation prior to it becoming effective.

5 (4) Notwithstanding the provisions of subsection (3) of this
6 section, if an employer that elects to affiliate as to retirement pursuant to
7 this section provides only social security coverage for retirement, each
8 member of such employer shall become covered under the retirement
9 provisions of the statewide defined benefit plan established by part 4 of
10 this article. All members hired by an employer that elects to affiliate as
11 to retirement pursuant to this section after the effective date of such
12 affiliation shall be covered under the retirement provisions of the
13 statewide defined benefit plan established by part 4 of this article. All
14 members of an employer that elects to affiliate as to disability pursuant
15 to this section shall be covered under the statewide death and disability
16 plan established by part 8 of this article.

17 (5) Benefits provided pursuant to the statewide defined benefit
18 and statewide death and disability plans established by this article to
19 members of employers that have affiliated pursuant to this section PRIOR
20 TO JANUARY 1, 2007, shall be reduced by the pro rata amount of any
21 social security benefit received by the member attributable to the
22 member's quarters of social security coverage derived from employment
23 as a member.

24 (6) The board shall set appropriate levels of employer and
25 employee contributions for employers that affiliate pursuant to this
26 section, substantially in the manner provided in sections 31-31-402 (3)
27 and 31-31-701 (5), and taking into consideration the reduction in benefits

1 provided in subsection (5) of this section.

2 (7) ~~The provisions of section 31-31-701 (3) for transfer of old hire~~
3 ~~pension plan assets shall apply to an employer that affiliates as to~~
4 ~~retirement pursuant to this section to the extent that it has such assets.~~
5 ~~The provisions of section 31-31-701 (3) for payment of benefits of a~~
6 ~~former old hire plan shall apply to an employer that affiliates as to~~
7 ~~retirement pursuant to this section to the extent that it has an old hire~~
8 ~~retirement pension plan other than social security.~~

9 (8) ~~Nothing contained in this section shall affect the ability of~~
10 ~~employers to terminate social security coverage or the procedures for~~
11 ~~such termination.~~

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

18 (10) ~~Upon the receipt of written notice of a change in affiliation~~
19 ~~required pursuant to subsection (9) of this section, and prior to the change~~
20 ~~in affiliation, an employer may elect not to participate in the social~~
21 ~~security supplemental plan established pursuant to section 31-31-704.6.~~
22 ~~An employer's election not to participate in the social security~~
23 ~~supplemental plan shall end the employer's affiliation with the statewide~~
24 ~~defined benefit plan upon the date of termination established by the~~
25 ~~board. Such an election shall not affect the employer's affiliation with the~~
26 ~~statewide death and disability plan.~~

27 **SECTION 2.** In Colorado Revised Statutes, 31-31-704.5, **add** (7)
28 as follows:

1 **31-31-704.5. Entry into social security supplemental plan.**

2 (7) NOTHING CONTAINED IN THIS SECTION SHALL AFFECT THE ABILITY OF
3 AN EMPLOYER TO TERMINATE SOCIAL SECURITY COVERAGE OR AFFECT
4 THE PROCEDURES FOR SUCH TERMINATION.

5 **SECTION 3.** In Colorado Revised Statutes, **add** 31-31-704.7 as
6 follows:

7 **31-31-704.7. Participation in statewide death and disability**
8 **plan.** ANY EMPLOYER PARTICIPATING IN THE SOCIAL SECURITY
9 SUPPLEMENTAL PLAN CREATED PURSUANT TO SECTION 31-31-704.6 MAY
10 ALSO ELECT COVERAGE UNDER THE STATEWIDE DEATH AND DISABILITY
11 PLAN BY FILING WITH THE BOARD A RESOLUTION TO THAT EFFECT FROM
12 THE GOVERNING BODY OF SUCH EMPLOYER.

13 **SECTION 4.** In Colorado Revised Statutes, 31-31-803, **amend**
14 (1) (a) (I) (A), (2) (a) (I), (2.1) (a) (I), and (2.2) (a) (I) as follows:

15 **31-31-803. Retirement for disability.** (1) (a) (I) Any member
16 hired before, on, or after April 7, 1978, who becomes totally disabled, as
17 defined in section 31-31-801 (4), shall be retired from active service for
18 disability and shall be eligible to receive the disability benefit provided
19 by this subsection (1) or section 31-31-806.5 if the member:

20 (A) Is not eligible for the normal retirement pension from a plan
21 that is part of the defined benefit system pursuant to section 31-31-204 or
22 a local defined benefit retirement pension ~~selected pursuant to section~~
23 ~~31-31-704 (3)~~ or provided pursuant to article 30.5 of this title; or

24 (2) (a) A member who becomes occupationally disabled, as
25 defined in section 31-31-801 (3), and is awarded a disability retirement
26 prior to October 1, 2002, shall be retired from active service for such time
27 as the occupational disability continues and shall be eligible to receive the

1 disability benefit provided by this subsection (2) or section 31-31-806.5
2 if the member:

3 (I) Is not eligible for the normal retirement pension from a plan
4 that is part of the defined benefit system pursuant to section 31-31-204 or
5 a local defined benefit retirement pension ~~selected pursuant to section~~
6 ~~31-31-704 (3)~~ or provided pursuant to article 30.5 of this title; or

7 (2.1) (a) A member who becomes permanently occupationally
8 disabled, as defined in section 31-31-801 (3.2), shall be retired from
9 active service for such time as the permanent occupational disability
10 continues and shall be eligible to receive the disability benefit provided
11 by this subsection (2.1) or section 31-31-806.5 if the member:

12 (I) Is not eligible for the normal retirement pension from a plan
13 that is part of the defined benefit system pursuant to section 31-31-204 or
14 a local defined benefit retirement pension ~~selected pursuant to section~~
15 ~~31-31-704 (3)~~ or provided pursuant to article 30.5 of this title; or

16 (2.2) (a) A member who becomes temporarily occupationally
17 disabled, as defined in section 31-31-801 (3.4), shall be retired from
18 active service for such time as the temporary occupational disability
19 continues for a period up to five years from the date of original
20 disablement and shall be eligible to receive the disability benefit provided
21 by this subsection (2.2) or section 31-31-806.5 if the member:

22 (I) Is not eligible for the normal retirement pension from a plan
23 that is part of the defined benefit system pursuant to section 31-31-204 or
24 a local defined benefit retirement pension ~~selected pursuant to section~~
25 ~~31-31-704 (3)~~ or provided pursuant to article 30.5 of this title; or

26 **SECTION 5.** In Colorado Revised Statutes, 31-31-807, **amend**
27 (1) (a) (II) (A) as follows:

28 **31-31-807. Death of member - survivor benefits.** (1) (a) If a

1 member dies while in active service or while on temporary occupational
2 disability under section 31-31-803 (2.2) and leaves a surviving spouse or
3 dependent children, or both, one of the survivor benefits described in
4 paragraph (b) of this subsection (1) shall be paid if the member:

5 (II) (A) Is not eligible for the normal retirement pension from a
6 plan that is part of the defined benefit system pursuant to section
7 31-31-204; or a local defined benefit retirement pension selected pursuant
8 to section 31-31-704 (3); or

9 **SECTION 6.** In Colorado Revised Statutes, 31-31-807.5, **amend**
10 (1) (a) (II) (A) and (1.5) (a) (II) as follows:

11 **31-31-807.5. Death of member - line-of-duty - survivor**
12 **benefits.** (1) (a) If a member dies while in active service as the direct
13 and proximate result of a personal injury sustained while performing
14 official duties or as a result of an occupational disease arising out of and
15 in the course of the member's employment, and if such member qualifies
16 for line-of-duty status under section 101 (h) of the federal "Internal
17 Revenue Code of 1986", as amended, and leaves a surviving spouse or
18 dependent children, or both, one of the survivor benefits described in
19 either paragraph (b) or (c) of this subsection (1) shall be paid if the
20 member:

21 (II) (A) Is not eligible for the normal retirement pension from a
22 plan that is part of the defined benefit system pursuant to section
23 31-31-204; or a local defined benefit retirement pension selected pursuant
24 to section 31-31-704 (3); or

25 (1.5) (a) On or after October 1, 2001, if a member dies while in
26 active service as the direct and proximate result of a personal injury
27 sustained while performing official duties or as a result of an occupational

1 disease arising out of and in the course of the member's employment, and
2 if such member qualifies for line-of-duty status under section 101 (h) of
3 the federal "Internal Revenue Code of 1986", as amended, and leaves a
4 surviving spouse or dependent children, or both, one of the survivor
5 benefits described in paragraph (b) of this subsection (1.5) shall be paid
6 if the member:

7 (II) Is eligible for the normal retirement pension from a plan that
8 is part of the defined benefit system pursuant to section 31-31-204; or a
9 ~~local defined benefit retirement pension selected pursuant to section~~
10 ~~31-31-704 (3); or~~

11 **SECTION 7.** In Colorado Revised Statutes, 31-31-808, **amend**
12 (2) as follows:

13 **31-31-808. Reduction of survivor benefits.** (2) The benefits
14 payable under sections 31-31-807 and 31-31-807.5 to the surviving
15 spouse and dependent children of any member who are also receiving
16 payments from the member's separate retirement account pursuant to
17 section 31-31-406 ~~or a local defined benefit retirement pension selected~~
18 ~~pursuant to section 31-31-704~~, shall be reduced by an amount that is the
19 actuarial equivalent of the benefits such surviving spouse and dependent
20 children receive from the separate retirement account, whether the
21 benefits received from the account are paid on a periodic basis or in a
22 lump sum.

23 **SECTION 8. Act subject to petition - effective date.** This act
24 shall take effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly
26 (August 7, 2012, if adjournment sine die is on May 9, 2012); except that,
27 if a referendum petition is filed pursuant to section 1 (3) of article V of
28 the state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part shall not take effect
2 unless approved by the people at the general election to be held in
3 November 2012 and shall take effect on the date of the official
4 declaration of the vote thereon by the governor.

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

BILL C

LLS NO. 12-0067.01 Esther van Mourik x4215

HOUSE BILL

HOUSE SPONSORSHIP

Gardner B., Barker, Duran, Labuda, Liston, Peniston, Ramirez, Schafer S., Scott, Waller

SENATE SPONSORSHIP

Tochtrop, King S., White

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE INVESTMENT CONFIDENTIALITY**
102 **PROVISIONS RELATED TO POLICE OFFICERS' AND FIREFIGHTERS'**
103 **PENSION PLANS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Police Officers' and Firefighters' Pension Reform Commission.

With respect to provisions addressing investment confidentiality, the definition of "investment information" is modified and the term "portfolio company" is replaced with the term "investment vehicle".

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 31-31-302, **amend**
3 (8) (a) (IV), (8) (a) (V), (8) (b), (8) (c), and (8) (d) as follows:

4 **31-31-302. Fund - management - investment - definitions.**

5 (8) (a) As used in this subsection (8):

6 (IV) "Investment information" means information that has not
7 been publicly disseminated or that is unavailable from other sources AND
8 INCLUDES INFORMATION the release of which might cause a ~~portfolio~~
9 ~~company~~ AN INVESTMENT VEHICLE, AN INVESTMENT MANAGER, A
10 GENERAL PARTNER, A FUND SPONSOR, or an investment fiduciary
11 significant competitive harm. Investment information includes, but is not
12 limited to, financial performance data and projections, financial
13 statements, lists of co-investors and their level of investment, PORTIONS
14 OF LISTS OF CURRENT OR PROJECTED INVESTMENT OPPORTUNITIES THAT
15 WOULD CAUSE COMPETITIVE HARM, product and market data, rent rolls,
16 ~~and~~ leases, OTHER TYPES OF PROPRIETARY INFORMATION, OR DOCUMENTS
17 AND INFORMATION THAT INVESTORS ARE LEGALLY REQUIRED TO
18 MAINTAIN AS CONFIDENTIAL AS A CONDITION OF PERFORMING DUE
19 DILIGENCE OR PARTICIPATING IN AN INVESTMENT.

20 (V) ~~"Portfolio company"~~ "INVESTMENT VEHICLE" means an entity
21 in which an investment fiduciary has made or considered an investment
22 on behalf of the association. INVESTMENT VEHICLES INCLUDE BUT ARE
23 NOT LIMITED TO SPONSORED FUNDS, LIMITED PARTNERSHIPS, AND LIMITED
24 LIABILITY COMPANIES.

25 (b) Subject to paragraph (c) of this subsection (8), a public record
26 received, prepared, used, or retained by an investment fiduciary in

1 connection with an investment or potential investment of the association
2 that relates to investment information pertaining to a ~~portfolio company~~
3 AN INVESTMENT VEHICLE in which the investment fiduciary has invested
4 or has considered an investment or that relates to investment information
5 whether prepared by or for the investment fiduciary ~~regarding loans and~~
6 ~~assets directly owned by the investment fiduciary~~ is exempt from the
7 disclosure requirements of part 2 of article 72 of title 24, C.R.S.

8 (c) If a public record described in paragraph (b) of this subsection
9 (8) is an agreement or instrument to which ~~an investment fiduciary~~ THE
10 ASSOCIATION is a party, only those parts of the public record that contain
11 investment information, as defined in subparagraph (IV) of paragraph (a)
12 of this subsection (8), are exempt from the disclosure requirements of part
13 2 of article 72 of title 24, C.R.S.

14 (d) At least annually the board shall publish and make available
15 to the public a report of its investments that includes the following:

16 (I) The name of each ~~portfolio company~~ INVESTMENT VEHICLE in
17 which the association invested during the reporting period;

18 (II) The aggregate amount of money invested by the association
19 in ~~portfolio companies~~ INVESTMENT VEHICLES during the reporting
20 period; and

21 (III) The rate of return realized during the reporting period on the
22 investments of the association in ~~portfolio companies~~ INVESTMENT
23 VEHICLES.

24 **SECTION 2. Act subject to petition - effective date.** This act
25 shall take effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly
27 (August 7, 2012, if adjournment sine die is on May 9, 2012); except that,

1 if a referendum petition is filed pursuant to section 1 (3) of article V of
2 the state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part shall not take effect
4 unless approved by the people at the general election to be held in
5 November 2012 and shall take effect on the date of the official
6 declaration of the vote thereon by the governor.