

CHAPTER 105

**GOVERNMENT - LOCAL**

**HOUSE BILL 20-1044**

BY REPRESENTATIVE(S) Bird and Garnett, Melton, Buckner, Caraveo, Duran, Esgar, Exum, Froelich, Gray, Herod, Hooton, Kennedy, Kipp, Lontine, McLachlan, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A.; also SENATOR(S) Garcia and Ginal, Danielson, Bridges, Fenberg, Fields, Foote, Gonzales, Hansen, Lee, Moreno, Pettersen, Rodriguez, Story, Todd, Williams A., Winter.

**AN ACT**

**CONCERNING MODIFICATIONS TO THE PENSION PLANS ADMINISTERED BY THE FIRE AND POLICE PENSION ASSOCIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, 31-30.5-304, **amend** (2)(a); and **repeal** (4) and (11) as follows:

**31-30.5-304. Limitation on existing funds - procedures.** (2) (a) Annual contributions to state-assisted old hire police officers' and firefighters' pension funds shall be made in ~~an~~ AT LEAST THE amount ~~that is equal to or greater than the sum of the actuarially determined amount required to amortize the unfunded accrued liabilities of such plan~~ DETERMINED BY THE POLICY SET BY THE BOARD OF THE FIRE AND POLICE PENSION ASSOCIATION THAT BALANCES THE FOLLOWING CONSIDERATIONS: STABILIZATION OF THE AMOUNT OF THE ANNUAL REQUIRED CONTRIBUTIONS OVER TIME; KEEPING THE FUNDED RATIO OF THE PENSION FUND FROM DECLINING; AND REDUCING OR ELIMINATING CONTRIBUTIONS AS MAY BE PRUDENT BASED ON ACTUARIAL EXPERIENCE. THE UNFUNDED ACCRUED LIABILITIES OF THE PLAN MAY BE AMORTIZED over a period not to exceed the lesser of twenty years or the number of years equal to the average remaining life expectancy of the pension fund's members. ~~plus the current service cost attributable to active members.~~

(4) ~~A governing body providing a state-assisted old hire pension plan that is required to contribute an amount in 2014 that is less than the contribution required by subsection (2) of this section beginning in 2015 and that determines that the minimum annual rate of municipal, fire protection district, or county improvement~~

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

~~district contributions provided in subsection (2) of this section would place an undue hardship on the taxpayers of such municipality, fire protection district, or county improvement district may adopt a resolution to that effect. Any municipality, fire protection district, or county improvement district that has adopted such resolution may make an annual contribution in the year 2015, in an amount that is not less than the amount that the municipality, fire protection district, or county improvement district is required to contribute in 2014. Beginning in 2016, such municipality, fire protection district, or county improvement district shall make the full amount of the annual contribution required by subsection (2) of this section.~~

~~(11) Notwithstanding any other provision of law to the contrary, an assessment against any employee of any fire or police department to which this article applies may be in an amount not to exceed ten percent of the employee's monthly salary. Said amount shall be deducted and withheld from the monthly pay of each such employee so assessed and placed to the credit of said employee's pension fund in the same manner as provided by this article; except that in no case shall employer contributions be less than employee contributions.~~

**SECTION 2.** In Colorado Revised Statutes, 31-31-402, **amend** (1), (2), and (3) as follows:

**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 defined benefit system trust fund eight percent of salary paid or such higher member contribution rate established pursuant to section 31-31-408 (1.5)(a) OR (1.6)(a). THE MEMBER CONTRIBUTION RATE SHALL INCREASE BY FOUR PERCENT TO BE IMPLEMENTED THROUGH EIGHT ANNUAL INCREASES AS FOLLOWS: BEGINNING IN 2015, AND EACH YEAR THEREAFTER THROUGH 2022, THE MEMBER CONTRIBUTION RATE SHALL INCREASE BY AN ADDITIONAL ONE-HALF OF ONE PERCENT OF BASE SALARY UNTIL THE TOTAL MEMBER CONTRIBUTION RATE, INCLUDING THE CUMULATIVE CONTRIBUTION RATE INCREASES, IS TWELVE PERCENT OF BASE SALARY. The payment shall be made by the employer by deduction from the salary paid such member. Each employer shall pick up the member 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 member contributions directly to the retirement association, instead of paying such amounts to members, and such contributions shall be paid from the same funds that are used in paying salaries to the members. Such contributions, although designated as member contributions, shall be paid by the employer in lieu of contributions by members. Members may not elect to choose to receive such contributions directly instead of having them paid by the employer to the pension plan. Member contributions so picked up shall be treated for all purposes of this article **31**, other than federal tax, in the same manner as member 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 ten days following the date of payment of salary to the member. All such payments shall be credited to the defined benefit system trust fund.

(2) (a) ~~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 defined benefit system trust fund eight percent of the salary paid to such member OR SUCH HIGHER EMPLOYER CONTRIBUTION RATE ESTABLISHED PURSUANT TO SECTION 31-31-408 (1.6)(a), and such payment shall be made no later than ten days following the date of payment of salary to the member. THE EMPLOYER CONTRIBUTION RATE SHALL INCREASE BY FOUR PERCENT TO BE IMPLEMENTED THROUGH EIGHT ANNUAL INCREASES AS FOLLOWS: BEGINNING IN 2021, AND EACH YEAR THEREAFTER THROUGH 2028, THE EMPLOYER CONTRIBUTION RATE SHALL INCREASE BY AN ADDITIONAL ONE-HALF OF ONE PERCENT OF BASE SALARY UNTIL THE TOTAL EMPLOYER CONTRIBUTION RATE, INCLUDING THE CUMULATIVE CONTRIBUTION RATE INCREASES, IS TWELVE PERCENT OF BASE SALARY. All such payments shall be credited to the defined benefit system trust fund.

(b) IN ADDITION TO THE RATE ESTABLISHED IN SUBSECTION (2)(a) OF THIS SECTION, THE EMPLOYER CONTRIBUTION RATE SHALL BE INCREASED BY ONE PERCENT OF BASE SALARY TO BE IMPLEMENTED AS FOLLOWS: BEGINNING IN 2021, AND CONTINUING THROUGH 2022, OR BEGINNING IN A SUBSEQUENT YEAR IN THE EVENT ANOTHER EMPLOYER CONTRIBUTION RATE INCREASE IS UNDER IMPLEMENTATION, THE EMPLOYER CONTRIBUTION RATE SHALL INCREASE BY AN ADDITIONAL ONE-HALF OF ONE PERCENT OF BASE SALARY IN EACH YEAR FOR A TOTAL OF A ONE PERCENT INCREASE IN ORDER TO PAY FOR THE COST OF THE BENEFIT ESTABLISHED IN SECTION 31-31-403 (4)(b).

(3) The general assembly declares that the rates of member 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 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 member and employer contributions as may be deemed feasible and advisable so long as the employer contribution rate ADJUSTMENT is at least equal to the member contribution rate ADJUSTMENT. If the member contribution rate has been increased pursuant to section 31-31-408 (1.5)(a), the requirement that the employer contribution rate be at least equal to the member contribution rate shall not apply, but in such circumstance, any increase to the employer contribution rate shall be at least equal to the increase in the member contribution rate and any decrease in the member contribution rate shall be at least equal to the decrease in the employer contribution rate.

**SECTION 3.** In Colorado Revised Statutes, 31-31-403, **amend** (1), (2)(a), and (4) as follows:

**31-31-403. Normal retirement - statewide defined benefit plan.** (1) (a) Any

member covered by the statewide defined benefit plan who has completed at least twenty-five years of active service and has attained the age of fifty-five years shall be eligible for a normal retirement pension subject to adjustment pursuant to ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION. The annual normal retirement pension shall be two percent of the average of the member's highest three years' base salary multiplied by the member's years of service. ~~not to exceed twenty-five.~~

(b) The board shall determine after each annual actuarial valuation if the cost of all benefits established by this part 4 for members covered under this section and the cost of a normal retirement pension beginning at age fifty-five for members then eligible may be fully funded on an actuarially sound basis without necessitating an increase in the ~~eight percent~~ employer and ~~eight percent~~ member contributions made pursuant to section 31-31-402 or such higher member contribution rate established pursuant to section 31-31-408 (1.5)(a). If the board cannot so determine, it shall order that the normal retirement pension commence such number of months as are actuarially supportable, from one to sixty, after age fifty-five for members who have completed at least twenty-five years of active service and are otherwise eligible in accordance with the board's determination. The determination of the board shall be conclusive in the absence of fraud. A pension commenced after age fifty-five pursuant to this ~~paragraph (b)~~ SUBSECTION (1)(b) shall not be subject to annual review. If a court determines that this ~~paragraph (b)~~ SUBSECTION (1)(b) is invalid, the age of retirement to be eligible for any normal retirement benefit shall be age sixty except for persons receiving a benefit at the time of the court's decision.

(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)~~ SUBSECTION (1)(b) 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 or such higher member contribution rate established pursuant to section 31-31-408 (1.5)(a), the board shall not increase such employer or member contributions unless:

(I) The board has terminated ~~the benefit~~ GRANTING ADDITIONAL BENEFITS described in section 31-31-405. ~~and~~

(II) ~~The board has transferred all funds in the stabilization reserve account to the actuarial account as required by 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.~~

(4) (a) Any member covered by the statewide defined benefit plan who has completed at least thirty years of active service or has attained the age of fifty years and who is not receiving benefits pursuant to section 31-31-803 may elect to retire from active service and shall be eligible for an early retirement pension. The annual early retirement pension for a member shall be the benefit, as determined by the board, that the member would have received at normal retirement reduced on an actuarial equivalent basis to reflect the early receipt of the benefit.

(b) BEGINNING JANUARY 1, 2021, ANY MEMBER COVERED BY THE STATEWIDE

DEFINED BENEFIT PLAN WHO HAS ATTAINED THE AGE OF FIFTY YEARS, WHOSE COMBINED AGE AND YEARS OF ACCRUED SERVICE IS EQUAL TO AT LEAST EIGHTY AND WHO IS NOT RECEIVING THE BENEFITS PURSUANT TO SECTION 31-31-803 SHALL BE ELIGIBLE FOR AN UNREDUCED NORMAL RETIREMENT PENSION.

(c) IF THE BOARD ADJUSTS THE AGE OF ELIGIBILITY PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, IT SHALL ALSO ADJUST THE AGE OF ELIGIBILITY FOR BENEFITS UNDER SUBSECTIONS (4)(a) AND (4)(b) OF THIS SECTION IN A LIKE MANNER.

**SECTION 4.** In Colorado Revised Statutes, 31-31-404, **amend** (2) as follows:

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

(b) The board shall determine after each annual actuarial valuation if the cost of all benefits established by this part 4 for members covered under section 31-31-403 and the cost of vested benefits beginning at age fifty-five for members then eligible may be fully funded on an actuarially sound basis without necessitating an increase in the ~~eight percent~~ employer and ~~eight percent~~ member contributions made pursuant to section 31-31-402 or such higher member contribution rate established pursuant to section 31-31-408 (1.5)(a). If the board cannot so determine, it shall order that the vested benefits commence such number of months as are actuarially supportable, from one to one hundred twenty, after age fifty-five for eligible members in accordance with the board's determination. The determination of the board shall be conclusive in the absence of fraud. A vested benefit commenced before age fifty-five pursuant to this ~~paragraph (b)~~ SUBSECTION (2)(b) shall not be subject to annual review. If a court determines that this ~~paragraph (b)~~ SUBSECTION (2)(b) is invalid, the age to be eligible for a vested benefit shall be age sixty-five except for persons receiving a benefit at the time of the court's decision.

**SECTION 5.** In Colorado Revised Statutes, 31-31-405, **amend** (2), (3), (5), and (6) as follows:

**31-31-405. Stabilization reserve account and separate retirement account -**

**creation - allocation.** (2) In each year after ~~1987~~ **2021**, 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 created by 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.~~ FUNDS ALLOCATED TO THE SEPARATE RETIREMENT ACCOUNTS SHALL BE IN THE NATURE OF A DEFINED CONTRIBUTION ACCOUNT AND SUBJECT TO SELF DIRECTION BY THE MEMBER. THE BOARD SHALL TRANSFER THE BALANCES OF THE PREDECESSOR SEPARATE RETIREMENT ACCOUNTS CONTAINED WITHIN THE MEMBERS BENEFIT INVESTMENT FUND TO DEFINED CONTRIBUTION ACCOUNTS ON OR ABOUT JANUARY 1, 2021. Members covered on a supplemental basis pursuant to section 31-31-704.5 shall be eligible for individual separate retirement accounts.

(5) Earnings ~~accruing~~ OR LOSSES on the amount allocated to the member's separate retirement account WHILE INVESTED AS PART OF THE MEMBER'S BENEFIT INVESTMENT FUND shall be allocated at least monthly on a time-weighted basis as determined by the board until the account is exhausted. EARNINGS OR LOSSES ON THE AMOUNT ALLOCATED TO THE MEMBER'S SEPARATE RETIREMENT ACCOUNT WHILE INVESTED AS PART OF THE MEMBERS SELF-DIRECTED INVESTMENT FUND SHALL BE ALLOCATED AS DETERMINED BY THE RECORD KEEPER.

(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 subsections (1) and (2) of this section. Reductions in a member's separate retirement account pursuant to this 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~~ THE VESTING AND DISTRIBUTION REQUIREMENTS UNDER THE PLAN.

**SECTION 6.** In Colorado Revised Statutes, 31-31-406, **amend** (4) and (7); and **repeal** (6) as follows:

**31-31-406. Separate retirement accounts - administration.** (4) A member may elect to ~~commence payment~~ TAKE A DISTRIBUTION of the amount in the member's separate retirement account at any time after the member terminates service ~~but in~~

~~no event later than the commencement of the member's retirement benefits under section 31-31-403 or 31-31-404 (2). A member will continue to accrue earnings on the amount in the member's separate retirement account until such time as the account is exhausted~~ AND IN ACCORDANCE WITH THE RULES ADOPTED BY THE BOARD. MEMBERS TERMINATING SERVICE AND ELECTING A DISTRIBUTION OR PARTIAL DISTRIBUTION ARE NO LONGER ELIGIBLE TO ELECT A REFUND OF CONTRIBUTIONS.

~~(6) If a member terminates service with less than five years of credited service and does not elect a refund of accumulated contributions, the amount in the member's separate retirement account shall not be forfeited but shall continue to be subject to the earnings and reduction provisions of section 31-31-405, and, upon the member's return to active service with an employer covering its members under the normal retirement provisions of this part 4, the member shall be credited with any amount which has accrued in the member's separate retirement account.~~

(7) The balance in a member's separate retirement account, the member's accumulated contributions to the account, and the earnings on the account shall be paid to the member's estate if the member:

- (a) Dies while in active service; AND
- (b) ~~Has more than five years of credited service;~~
- (c) Does not leave a surviving spouse, dependent child, or designated beneficiary.  
and
- ~~(d) Is not eligible for the normal retirement pension described in section 31-31-403 at the time of death.~~

**SECTION 7.** In Colorado Revised Statutes, 31-31-408, **add** (1.6) as follows:

**31-31-408. Modification of state plan by the board.**

(1.6) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 4, THE BOARD MAY INCREASE THE CONTRIBUTION RATE ABOVE THE RATE ESTABLISHED PURSUANT TO SECTION 31-31-402 WITH RESPECT TO THE MEMBERS AND EMPLOYERS OF THE STATEWIDE DEFINED BENEFIT PLAN IF:

- (I) THE RATE OF INCREASE IS EQUAL FOR THE MEMBER AND THE EMPLOYER;
- (II) THE INCREASE DOES NOT ADVERSELY AFFECT THE PLAN'S STATUS AS A QUALIFIED PLAN PURSUANT TO THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;
- (III) THE INCREASE IS APPROVED BY SIXTY-FIVE PERCENT OF THE ACTIVE MEMBERS OF THE PLAN WHO VOTE IN THE ELECTION PROPOSING AN INCREASE IN THE MEMBER CONTRIBUTION RATE; AND
- (IV) THE INCREASE IS APPROVED BY MORE THAN FIFTY PERCENT OF THE EMPLOYERS HAVING ACTIVE MEMBERS COVERED BY THE PLAN WHO VOTE IN THE ELECTION PROPOSING AN INCREASE IN THE MEMBER CONTRIBUTION RATE, EACH

EMPLOYER TO BE ASSIGNED ONE VOTE; EXCEPT THAT EMPLOYERS HAVING BOTH ACTIVE POLICE AND FIRE MEMBERS IN THE PLAN SHALL BE ASSIGNED TWO VOTES.

(b) THE INCREASE IN THE MEMBER CONTRIBUTION RATE ESTABLISHED PURSUANT TO SUBSECTION (1.6)(a) OF THIS SECTION SHALL BE PAID FROM A MEMBER'S SALARY AND OTHERWISE BE TREATED IN THE SAME MANNER SPECIFIED IN SECTION 31-31-402 (1) FOR OTHER MEMBER CONTRIBUTIONS FOR PURPOSES OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

(c) THE BOARD MAY ELIMINATE AN INCREASE IN THE MEMBER AND EMPLOYER CONTRIBUTION RATE ESTABLISHED PURSUANT TO SUBSECTION (1.6)(a) OF THIS SECTION, SO LONG AS THE REQUIREMENTS FOR AN INCREASE SET FORTH IN SUBSECTION (1.6)(a) OF THIS SECTION ARE MET.

**SECTION 8.** In Colorado Revised Statutes, **amend** 31-31-704.7 as follows:

**31-31-704.7. Participation in statewide death and disability plan.** (1) Any employer participating in the social security supplemental plan created pursuant to section 31-31-704.6 may ~~also~~ NOT elect coverage under the statewide death and disability plan. ~~by filing with the board a resolution to that effect from the governing body of such employer.~~

~~(2) Any social security employer that offers coverage under the statewide death and disability plan must also participate in the social security supplemental retirement plan created pursuant to section 31-31-704.6. Coverage under the statewide death and disability plan for any social security employer not participating in the social security supplemental retirement plan may be terminated by the board on or after January 1, 2017.~~

**SECTION 9.** In Colorado Revised Statutes, **amend** 31-31-708 as follows:

**31-31-708. Optional affiliation by county sheriff.** Any county that does not cover, under the federal "Social Security Act", as amended, salaried employees whose duties are directly involved with the provision of law enforcement or fire protection as certified by the county may elect coverage under the statewide defined benefit plan established in part 4 of this article **31** and the statewide death and disability plan established in part 8 of this article **31** by filing a resolution of affiliation with the board. Election of coverage under the plan is irrevocable. SUCH PARTICIPATION SHALL BE AS PROVIDED BY RULES ADOPTED BY THE BOARD. THE BOARD MAY DETERMINE A CONTINUING RATE OF CONTRIBUTION FOR ALL MEMBERS WHO ARE ACTIVE ON THE EFFECTIVE DATE OF COVERAGE TO FUND BENEFITS AS MAY BE NECESSARY TO ENSURE THAT THE AFFILIATING EMPLOYERS' COVERAGE SHALL NOT HAVE AN ADVERSE FINANCIAL IMPACT ON THE ACTUARIAL SOUNDNESS OF THE PLAN.

**SECTION 10.** In Colorado Revised Statutes, 31-31-802, **amend** (1)(c) and (2) as follows:

**31-31-802. Coverage.** (1) Except as provided in section 31-31-803, any member hired before, on, or after April 7, 1978, is eligible for the benefits provided by this part 8, with the exception of the following:



(c) Members whose employer had established a money purchase plan on or before December 1, 1978, in accordance with the provisions of part 8 of article 30.5 of this title 31, ~~except that members of a police or fire department of any such employer may elect, with the approval of sixty-five percent of all active members employed by the department who vote in the election proposing the coverage and with the consent of the members' employer, to be covered by the provisions of this part 8, but any member hired on or after the date determined by the board to be the effective date of affiliation for coverage under this part 8 shall be covered under said part and shall have no right of election. Upon election of such coverage, members shall complete a statewide standard health history form pursuant to section 31-31-810 (1)(c) and, for purposes of this part 8, shall be considered as if first employed as of the date the election is effective. The board shall establish procedures for obtaining the required member and employer approval for coverage under this part 8. Once a member has elected the coverage of this part 8, the member's election shall be irrevocable. No employer that elects coverage on or after July 1, 1996, under this part 8 pursuant to this subsection (1)(c) shall be permitted to withdraw from such coverage pursuant to subsection (2) of this section.~~

(2) (a) ~~Any employer may withdraw the active members of its police or fire department from coverage under the disability and survivor benefit provisions of this part 8 in order to establish its own exempt disability and survivor benefit program. Such withdrawal must be approved by at least sixty-five percent of all active members employed by the department, but if the members do not so approve, the employer may request approval of the withdrawal by the board. The board shall approve the request only if the proposed alternative program will provide disability and survivor benefits which are at least the actuarial equivalent of benefits provided under this part 8, as determined by an actuary appointed by the board. In making its determination, the actuary shall follow the association's standards for actuarial equivalency and shall include a review of the income tax consequences of the benefits offered. The cost of an actuarial review shall be paid by the employer and the employer will provide the information requested by the actuary. In the event the employer proposes the use of a private insurance company to provide the alternative program, the company shall have a minimum rating from a recognized rating agency as prescribed by rules of the board.~~ DEPARTMENTS PARTICIPATING IN A PLAN ESTABLISHED PURSUANT TO PART 4, 5, OR 11 OF THIS TITLE 31 AND NOT PARTICIPATING IN THE PLAN FOR DISABILITY AND SURVIVOR BENEFITS UNDER THIS PART 8 MAY BE COVERED BY THE PROVISIONS OF THIS PART 8 IN ACCORDANCE WITH THE TERMS, CONDITIONS, AND PROCEDURES ESTABLISHED BY THE BOARD.

(b) ~~An employer requesting to withdraw as provided in this subsection (2) must file a resolution of intent to withdraw with the board no later than December 31, 1999. No withdrawal FROM COVERAGE UNDER THE DISABILITY AND SURVIVOR BENEFITS PROVISIONS OF THIS PART 8 will be permitted to take effect after December 31, 2001.~~

(c) ~~An employer that withdraws pursuant to this subsection (2) shall establish and maintain a locally financed alternative disability and survivor benefit plan. Except for the one time payment specified in paragraph (c) of this subsection (2), the state shall not have any financial or other responsibility for a plan that has been withdrawn pursuant to this subsection (2).~~

(d) The board shall promulgate rules relating to the standards for disclosure of all ramifications of and procedures for obtaining the member approval of withdrawal provided for in paragraph (a) of this subsection (2).

(e) Within sixty days of the effective date of a withdrawal under this subsection (2), the association shall pay to the withdrawn employer its actuarially determined proportionate share of the state contribution made by the state treasurer on January 31, 1997, for funding of death and disability benefits pursuant to section 31-31-811 (3). The board shall promulgate rules for determining the calculation of a withdrawn employer's actuarially determined proportionate share of the state contribution. Such rules shall consider the number of members hired prior to January 1, 1997, who are being withdrawn, the number of members hired prior to January 1, 1997, who continue to be covered for death and disability benefits under this part 8, including those members and survivors already receiving benefits, and the cost of covering the withdrawn employer's members for the period prior to the withdrawal. Any money paid to a withdrawn employer pursuant to this paragraph (e) shall be applied to the funding of that employer's exempt disability and survivor benefit program created pursuant to paragraph (a) of this subsection (2).

(f) Once an employer has withdrawn under this subsection (2), reentry into the disability and survivor benefit plan provided by this part 8 shall be permitted only once, in accordance with TERMS, CONDITIONS, AND procedures established by the board.

**SECTION 11.** In Colorado Revised Statutes, 31-31-811, **amend** (2) and (4); and **repeal** (3) as follows:

**31-31-811. Funding of death and disability benefits.** (2) (a) The board shall submit an annual actuarial valuation report DATED JANUARY 1 OF THE YEAR IN WHICH THE REPORT IS SUBMITTED, regarding the benefit liabilities accrued under this part 8 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.

(b) ~~(f)~~ In addition to the actuarial valuation report required by paragraph (a) of this subsection (2), the board shall submit an annual actuarial valuation report regarding the disability and survivor benefit plan established by this part 8 to the state auditor, the legislative audit committee, and the joint budget committee of the general assembly. No later than January 1 of each year, commencing January 1, 1993, and continuing through January 1, 1996, the board shall certify the amount of the state contribution to be made pursuant to subsection (3) of this section based on the latest actuarial valuation report regarding the disability and survivor benefit plan. In order to effectuate any transfer of funds required by section 31-31-802 (2)(c), the actuarial valuation report regarding the disability and survivor benefit plan shall include, at least through the year 2005, members who have withdrawn from the plan pursuant to section 31-31-802 (2).

~~(H)~~ Following the submittal of the annual actuarial valuation report dated January 1, 1995, and continuing through the submittal of the report dated January 1, 1999, the board shall submit biennial actuarial valuation reports for the purposes described in subsection (4) of this section.

(HH) (A) By September 30, 2001, and by each September 30 thereafter, the board shall submit an annual actuarial valuation report dated January 1 of the year in which the report is submitted for the purposes described in subsection (4) of this section.

(B) The general assembly reviewed the reporting requirements to the general assembly in sub-subparagraph (A) of this subparagraph (HH) during the 2008 regular session and continued the requirements.

(3) On the first day of each month of each fiscal year commencing July 1, 1993, the state treasurer shall transfer one-twelfth of the amount certified by the board for that fiscal year for state funding of death and disability benefits pursuant to subsection (2) of this section, which amount shall in no case exceed seven million five hundred thousand dollars for such fiscal year, to the fund created by section 31-31-301 (1)(a) for allocation to the death and disability account in the fund; except that no such transfer shall be made after December 31, 1996. On January 31, 1997, the state treasurer shall transfer thirty-nine million dollars for state funding of death and disability benefits pursuant to this subsection (3) for members hired before January 1, 1997, to the fund created by section 31-31-301 (1)(a) for allocation to the death and disability account in the fund. No transfer of any amounts shall be made after January 31, 1997, for state funding of death and disability benefits. Moneys in the fund created by section 31-31-301 (1)(a) shall not revert to the general fund but shall be continuously available for the purposes provided in this part 8.

(4) For each member hired on or after January 1, 1997, who is eligible for the death and disability coverage provided by this part 8, a contribution shall be made to the death and disability account in the fund for the years 1997 and 1998 YEAR 2021 in an amount not greater than ~~two and four tenths~~ THREE percent of the member's salary. Thereafter, the board, based on an annual actuarial valuation, may adjust the contribution rate every ~~two years~~ YEAR, but in no event may the adjustment for any ~~two-year~~ ONE-YEAR period exceed ~~one-tenth~~ TWO-TENTHS of one percent of the member's salary. Any employer and any local pension board or authority shall provide such information as may be required by the board in order to complete the annual actuarial valuations. The actuary appointed by the board may utilize either the entry age-normal cost method or the aggregate cost method for purposes of the study required by this subsection (4). Any unfunded accrued liability shall be funded over a period not to exceed thirty years. The actuarial study shall not include any consideration of a cost of living adjustment to benefits awarded to members who are occupationally disabled. Payments shall be made by the employer and are due no later than ten days following the date of payment of salary to the member. The payments required by this section are subject to interest if not submitted when due. Any decision regarding whether the contribution required by this subsection (4) shall be assessed against the employer or the member, or shall in some manner be assessed jointly against the employer and the member, will be made at the local level utilizing the usual process for determining employee benefits. If it is not already part of the usual process for determining employee benefits, the employer shall confer with the employees or their representative prior to making a determination on how the contribution will be assessed.

**SECTION 12.** In Colorado Revised Statutes, 31-31-1101, **amend** (7) as follows:

**31-31-1101. Entry into the fire and police pension association defined benefit system.** (7) The board shall determine a continuing uniform rate of contribution for all members who are active on the effective date of coverage to fund the benefits payable by the fire and police pension association under the statewide defined benefit plan. The continuing rate of contribution shall be determined by the board utilizing certified actuarial reports prepared by the actuary for the plan. Any actuarial report shall also certify, in accordance with accepted actuarial principals, that the employers' coverage shall not have an adverse financial impact on the actuarial soundness of the plan. Continuing contributions for each member who is active on the effective date of coverage shall be made at the rate established on said date until the member's retirement or termination; EXCEPT THAT THE BOARD MAY LOWER THE CONTINUING RATE OF CONTRIBUTION IN THE EVENT IT FINDS THAT THE ORIGINAL CONTINUING RATE OF CONTRIBUTION IS IN EXCESS OF WHAT IS REQUIRED TO PAY THE COST OF BENEFITS BASED ON THE ADVICE OF THE ACTUARY. The board may periodically adjust the rate prior to the election of coverage by an employer based on certified actuarial reports prepared by the actuary for the plan.

**SECTION 13. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 1, 2020