

CHAPTER 107

GOVERNMENT - MUNICIPAL

HOUSE BILL 93-1243

BY REPRESENTATIVE Coffman;
also SENATORS Schroeder, Bishop, and Hopper.

AN ACT

CONCERNING EMPLOYER PARTICIPATION IN A STATEWIDE MONEY PURCHASE PLAN FOR POLICE AND FIRE MEMBERS IN LIEU OF PARTICIPATION IN THE STATEWIDE DEFINED BENEFIT PLAN.

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

SECTION 1. Part 10 of article 30 of title 31, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

31-30-1003.1. Withdrawal into statewide money purchase plan. (1) ANY EMPLOYER MAY WITHDRAW FROM ITS PARTICIPATION IN THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED BY THIS PART 10 FOR THE SOLE PURPOSE OF ELECTING PARTICIPATION IN THE STATEWIDE MONEY PURCHASE PLAN CREATED PURSUANT TO THE AUTHORITY GRANTED IN SECTION 31-30-1005.3.

(2) (a) THE EMPLOYER MAY INITIATE WITHDRAWAL FROM THE STATEWIDE DEFINED BENEFIT PLAN BY FILING WITH THE BOARD A RESOLUTION ADOPTED BY THE EMPLOYER PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2), NO LESS THAN SIX MONTHS PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL UNLESS A SHORTER WAITING PERIOD IS APPROVED BY THE BOARD. THE EFFECTIVE DATE OF WITHDRAWAL SHALL BE JANUARY 1 OF THE YEAR FOLLOWING THE WAITING PERIOD.

(b) THE EMPLOYER'S WITHDRAWAL RESOLUTION SHALL BE ADOPTED BY THE GOVERNING BODY OF THE EMPLOYER AND SHALL STATE THE EMPLOYER'S INTENT TO WITHDRAW FROM PARTICIPATION IN THE STATEWIDE DEFINED BENEFIT PLAN FOR THE PURPOSE OF ELECTING PARTICIPATION IN THE STATEWIDE MONEY PURCHASE PLAN.

(c) ANY WITHDRAWAL SHALL BE APPROVED BY AT LEAST SIXTY-FIVE PERCENT OF ALL ACTIVE MEMBERS EMPLOYED BY THE EMPLOYER WHO ARE PARTICIPATING IN THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

STATEWIDE DEFINED BENEFIT PLAN AT THE TIME OF THE ELECTION.

(d) THE BOARD SHALL PROMULGATE RULES AND REGULATIONS RELATING TO STANDARDS FOR DISCLOSURE OF ALL RAMIFICATIONS AND PROCEDURES FOR OBTAINING THE MEMBER APPROVAL PROVIDED FOR IN PARAGRAPH (c) OF THIS SUBSECTION (2).

(e) ALL WITHDRAWALS FROM THE STATEWIDE DEFINED BENEFIT PLAN SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS SECTION, AND, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL WITHDRAWALS MEETING SUCH REQUIREMENTS SHALL BE APPROVED BY THE BOARD. WITHDRAWAL REQUESTS WHICH DO NOT MEET THE REQUIREMENTS OF THIS SECTION SHALL NOT BE APPROVED BY THE BOARD.

(3) THE RIGHTS OF BENEFIT RECIPIENTS AND THE VESTED RIGHTS OF INACTIVE MEMBERS SHALL NOT BE IMPAIRED OR REDUCED IN ANY MANNER AS A RESULT OF THE WITHDRAWAL OF AN EMPLOYER AS PROVIDED IN THIS SECTION.

(4) (a) THE BOARD SHALL DETERMINE THE AMOUNT OF RESERVES REQUIRED AS OF THE EFFECTIVE DATE OF WITHDRAWAL TO MAINTAIN CURRENT BENEFITS PAYABLE BY THE ASSOCIATION TO BENEFIT RECIPIENTS AND TO PRESERVE THE VESTED RIGHTS OF INACTIVE MEMBERS. SAID AMOUNT OF RESERVES SHALL BE DETERMINED BY THE BOARD UTILIZING CERTIFIED ACTUARIAL REPORTS PREPARED BY THE ACTUARY FOR THE STATEWIDE DEFINED BENEFIT PLAN. ANY SUCH ACTUARIAL REPORT SHALL ALSO CERTIFY THAT THE WITHDRAWAL SHALL NOT HAVE AN ADVERSE FINANCIAL IMPACT ON THE ACTUARIAL SOUNDNESS OF THE NEW HIRE BENEFITS ACCOUNT. IF THE ACTUARY DETERMINES, IN ACCORDANCE WITH ACCEPTED ACTUARIAL PRINCIPLES, THAT THE WITHDRAWAL SHALL HAVE AN ADVERSE FINANCIAL IMPACT ON THE ACTUARIAL SOUNDNESS OF THE NEW HIRE BENEFITS ACCOUNT, THE EMPLOYER SHALL NOT BE PERMITTED TO WITHDRAW.

(b) ON THE EFFECTIVE DATE OF WITHDRAWAL, THE ACTUARIAL REPORTS PREPARED PURSUANT TO THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL BE UPDATED TO FINALIZE THE AMOUNT OF RESERVES REQUIRED FOR THE PURPOSES SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (4).

(c) EXPENSES INCURRED BY THE BOARD FOR THE ACTUARIAL REPORTS PREPARED AS A RESULT OF AN APPLICATION FOR WITHDRAWAL SHALL BE PAID BY THE EMPLOYER MAKING SUCH APPLICATION.

(d) THE BOARD SHALL PROVIDE ANY INFORMATION CONTAINED IN SUCH ACTUARIAL REPORTS UPON REQUEST OF THE EMPLOYER MAKING THE APPLICATION FOR WITHDRAWAL.

(5) (a) IN THE EVENT THAT THE AMOUNT OF THE RESERVES REQUIRED PURSUANT TO THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION EXCEEDS THE AMOUNT OF THE EMPLOYER'S SHARE OF THE EMPLOYER CONTRIBUTION RESERVE IN THE NEW HIRE BENEFITS ACCOUNT AS CALCULATED BY THE ACTUARY, THEN THE EMPLOYER SHALL MAKE AN ADDITIONAL PAYMENT ON THE EFFECTIVE DATE OF WITHDRAWAL IN AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT OF RESERVES REQUIRED AND THE AMOUNT OF RESERVES ON DEPOSIT.

(b) IN THE EVENT THAT THE AMOUNT OF THE RESERVES ON DEPOSIT IN THE NEW HIRE BENEFITS ACCOUNT, AS CALCULATED BY THE ACTUARY, FOR THE EMPLOYER MAKING APPLICATION FOR WITHDRAWAL EXCEEDS THE AMOUNT OF RESERVES REQUIRED PURSUANT TO THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION, SUCH EXCESS AMOUNT AND THE AMOUNT REQUIRED FOR THE TRANSFER OF MEMBER CONTRIBUTIONS AS PROVIDED IN SUBSECTION (6) OF THIS SECTION SHALL BE TRANSFERRED TO THE FIRE AND POLICE MEMBERS' STATEWIDE MONEY PURCHASE PLAN BENEFIT FUND ON THE EFFECTIVE DATE OF WITHDRAWAL. ALLOCATION OF SUCH AMOUNTS TO INDIVIDUAL MEMBER ACCOUNTS UNDER THE STATEWIDE MONEY PURCHASE PLAN SHALL BE MADE AS SET FORTH IN SECTION 31-30-1005.3.

(c) IF ANY PAYMENT REQUIRED PURSUANT TO THE PROVISIONS OF PARAGRAPH (a) OR (b) OF THIS SUBSECTION (5) IS NOT MADE, INTEREST SHALL BE ASSESSED ON THE AMOUNT DUE AT THE RATE SPECIFIED FOR EMPLOYERS IN SECTION 31-30-1013 (4) UNTIL SUCH AMOUNT IS PAID IN FULL.

(6) (a) MEMBERS WHO ARE NOT VESTED UNDER THE STATEWIDE DEFINED BENEFIT PLAN AND WHO ARE EMPLOYEES OF AN EMPLOYER WHICH HAS WITHDRAWN FROM THE STATEWIDE DEFINED BENEFIT PLAN SHALL HAVE THEIR MEMBER CONTRIBUTIONS CREDITED TO THE STATEWIDE MONEY PURCHASE PENSION PLAN AS SET FORTH IN SECTION 31-30-1005.3.

(b) MEMBERS WHO ARE VESTED UNDER THE STATEWIDE DEFINED BENEFIT PLAN AND WHO ARE EMPLOYEES OF AN EMPLOYER WHICH HAS WITHDRAWN FROM THE STATEWIDE DEFINED BENEFIT PLAN MAY ELECT THAT THEIR CONTRIBUTIONS REMAIN WITH THE STATEWIDE DEFINED BENEFIT PLAN BY GIVING WRITTEN NOTICE TO THE ASSOCIATION PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL. MEMBERS WHO MAKE SUCH AN ELECTION SHALL BECOME INACTIVE STATEWIDE DEFINED BENEFIT PLAN MEMBERS ENTITLED TO VESTED BENEFITS UPON TERMINATION AND ATTAINMENT OF VESTED RETIREMENT AGE. SUCH MEMBERS SHALL NOT BE ENTITLED TO WITHDRAW ANY AMOUNTS FROM THEIR SEPARATE RETIREMENT ACCOUNT UNTIL THEY HAVE TERMINATED THEIR CURRENT EMPLOYMENT. IF SUCH MEMBERS DIE OR BECOME DISABLED PRIOR TO TERMINATION OF EMPLOYMENT, NEITHER THEY NOR THEIR SURVIVORS SHALL BE ELIGIBLE FOR BENEFITS UNDER THE STATEWIDE DEFINED BENEFIT PLAN, BUT RATHER THEY SHALL BE LIMITED TO THOSE BENEFITS PROVIDED IN SECTIONS 31-30-1007 AND 31-30-1008. MEMBERS WHO DO NOT ELECT TO LEAVE THEIR CONTRIBUTIONS WITH THE STATEWIDE DEFINED BENEFIT PLAN SHALL HAVE THEIR MEMBER CONTRIBUTIONS CREDITED TO THE STATEWIDE MONEY PURCHASE PENSION PLAN AS SET FORTH IN SECTION 31-30-1005.3.

(7) THE PROVISIONS OF SECTION 31-30-1011 (1) (b) WHICH RELATE TO THE PURCHASE OF SERVICE CREDIT FORFEITED BY THE REFUND OF MEMBER CONTRIBUTIONS SHALL NOT APPLY TO MEMBERS WHO ARE EMPLOYEES OF AN EMPLOYER WHICH HAS WITHDRAWN FROM THE STATEWIDE DEFINED BENEFIT PLAN. SUCH SERVICE CREDIT FORFEITED BY SUCH WITHDRAWAL MAY BE PURCHASED PURSUANT TO THE PROVISIONS OF SECTION 31-30-1006 (6).

31-30-1005.3. Statewide money purchase plan - creation - management.

(1) THE BOARD SHALL DEVELOP, MAINTAIN, AND AMEND A STATEWIDE MONEY PURCHASE PLAN DOCUMENT WHICH IS INTENDED TO COMPLY WITH THE QUALIFICATION REQUIREMENTS SPECIFIED IN SECTION 401 OF THE INTERNAL REVENUE

CODE, AS APPLICABLE TO GOVERNMENTAL PLANS. AS USED IN THIS SUBSECTION (1), "INTERNAL REVENUE CODE" SHALL HAVE THAT MEANING SET FORTH IN SECTION 31-30-1019(1). THE PLAN SHALL COVER THE MEMBERS OF THOSE EMPLOYERS WHICH HAVE WITHDRAWN FROM THE STATEWIDE DEFINED BENEFIT PLAN PURSUANT TO SECTION 31-30-1003.1.

(2) (a) THERE IS HEREBY CREATED THE FIRE AND POLICE MEMBERS' STATEWIDE MONEY PURCHASE PLAN BENEFIT FUND, WHICH SHALL CONSIST OF MONEYS OF EMPLOYERS WHICH HAVE WITHDRAWN FROM THE STATEWIDE DEFINED BENEFIT PLAN PURSUANT TO SECTION 31-30-1003.1, INCLUDING MEMBER AND EMPLOYER CONTRIBUTIONS AND SUCH AMOUNTS AS ARE TRANSFERRED PURSUANT TO SECTION 31-30-1003.1. THE BOARD SHALL KEEP AN ACCURATE ACCOUNT OF THE FUND AND OF EACH MEMBER'S SEPARATE ACCOUNT IN THE FUND. THE BOARD MAY CREATE, AND IS AUTHORIZED TO OFFER TO EACH MEMBER OF THE STATEWIDE MONEY PURCHASE PLAN, VARIOUS INVESTMENT OPTIONS INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(I) OPTION A, WHICH IS INVESTMENT IN THE FIRE AND POLICE MEMBERS' BENEFIT FUND CREATED BY SECTION 31-30-1012 (1) (a);

(II) OPTION B, WHICH IS INVESTMENT IN A STOCK PORTFOLIO FUND;

(III) OPTION C, WHICH IS INVESTMENT IN A BOND PORTFOLIO FUND;

(IV) OPTION D, WHICH IS INVESTMENT IN A GUARANTEED FUND.

(b) THE PLAN DOCUMENT CREATED BY THE BOARD PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL GOVERN THE CALCULATION AND ALLOCATION OF EARNINGS AND LOSSES UNDER THE VARIOUS INVESTMENT OPTIONS LISTED IN PARAGRAPH (a) OF THIS SUBSECTION (2) WHICH THE BOARD MAY OFFER, THE TRANSFER OF ASSETS BETWEEN FUNDS UNDER EACH OPTION, THE ALLOCATION OF A MEMBER'S ACCOUNT BETWEEN INVESTMENT OPTIONS, AND SUCH OTHER MATTERS AS MAY BE NECESSARY TO THE BOARD'S ADMINISTRATION AND MANAGEMENT OF THE FUND CREATED PURSUANT TO THIS SECTION.

(c) IN ITS ADMINISTRATION AND MANAGEMENT OF THE FUND, THE BOARD SHALL BE SUBJECT TO THE SAME PROVISIONS APPLICABLE TO ITS ADMINISTRATION AND MANAGEMENT OF THE FIRE AND POLICE MEMBERS' MONEY PURCHASE PLAN BENEFIT FUND AS SET FORTH IN SECTION 31-30-1012.3 (2) TO (7). FURTHER, IN ITS ADMINISTRATION AND MANAGEMENT OF THE FUND, THE BOARD SHALL CONSIDER EMPLOYING OR CONTRACTING WITH INVESTMENT COUNSELORS TO MANAGE ALL OR A PORTION OF THE ASSETS OF THE FUND AND MAY GRANT TO SUCH INVESTMENT COUNSELORS THE AUTHORITY TO MAKE INVESTMENT DECISIONS WITH RESPECT TO THE ASSETS THEY MANAGE, INCLUDING THE AUTHORITY TO PURCHASE AND SELL INVESTMENT ASSETS. ANY INVESTMENT COUNSELORS RETAINED BY THE BOARD SHALL AT ALL TIMES BE SUBJECT TO THE STANDARDS AND LIMITATIONS SET FORTH IN SECTION 15-1-304, C.R.S.

(3) EACH MEMBER'S MEMBER CONTRIBUTIONS TRANSFERRED TO THE FUND PURSUANT TO SECTION 31-30-1003.1 (5) (b) SHALL BE ALLOCATED TO THE MEMBER'S SEPARATE ACCOUNT WITHIN THE FUND. IN ADDITION, EACH MEMBER'S SEPARATE

ACCOUNT WILL BE CREDITED WITH A PORTION OF ANY EXCESS EMPLOYER RESERVE WHICH IS TRANSFERRED TO THE FUND, SUCH AMOUNT TO BE CALCULATED BY MULTIPLYING THE EXCESS EMPLOYER RESERVE TIMES THE PROPORTION WHICH THE MEMBER'S TRANSFERRED MEMBER CONTRIBUTIONS BEARS TO THE TOTAL MEMBER CONTRIBUTIONS TRANSFERRED.

(4) UPON THE EFFECTIVE DATE OF AN EMPLOYER'S WITHDRAWAL FROM THE STATEWIDE DEFINED BENEFIT PLAN AND ELECTION TO PARTICIPATE IN THE STATEWIDE MONEY PURCHASE PLAN, EACH MEMBER COVERED BY THE STATEWIDE MONEY PURCHASE PLAN SHALL PAY INTO THE FUND EIGHT PERCENT OF SALARY PAID. THE PAYMENT SHALL BE MADE BY THE EMPLOYER BY DEDUCTION FROM THE SALARY PAID SUCH MEMBER. FOR EACH SUCH MEMBER, THE EMPLOYER SHALL PAY INTO THE FUND EIGHT PERCENT OF THE SALARY PAID TO SUCH MEMBER. ALL SUCH PAYMENTS SHALL BE MADE BY ONE VOUCHER FOR THE AGGREGATE AMOUNT AND SHALL BE MADE NO LATER THAN THE TENTH DAY AFTER THE END OF EACH PAY PERIOD. ALL SUCH PAYMENTS SHALL BE CREDITED TO THE FUND. LATE PAYMENTS ARE SUBJECT TO THE PENALTY SET FORTH IN SECTION 31-30-1013 (4).

(5) EXCEPT WITH RESPECT TO AMENDMENTS NECESSARY TO COMPLY WITH STATE AND FEDERAL LAW, THE BOARD MAY AMEND THE STATE MONEY PURCHASE PLAN DOCUMENT CREATED PURSUANT TO SUBSECTION (1) OF THIS SECTION ONLY UPON THE APPROVAL OF AT LEAST SIXTY-FIVE PERCENT OF THE ACTIVE MEMBERS OF THE PLAN AND MORE THAN FIFTY PERCENT OF THE EMPLOYERS HAVING ACTIVE MEMBERS COVERED BY THE PLAN, 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. NO MEMBER, HOWEVER, MAY INCREASE THE EMPLOYER CONTRIBUTION RATE ABOVE EIGHT PERCENT OF THE SALARY PAID TO EACH PARTICIPATING MEMBER.

SECTION 2. 31-30-1003 (1) and (2) (b) (I), the introductory portion to 31-30-1003 (2) (b) (II), and 31-30-1003 (3) (b), (6) (a), and (7), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

31-30-1003. Applicability of plan. (1) Except as provided in subsection (2) of this section, every employer in this state shall provide the pension benefits of the STATEWIDE DEFINED BENEFIT plan established by this part 10 for members hired on or after April 8, 1978.

(2) (b) (I) Any employer may withdraw from the ~~association~~ STATEWIDE DEFINED BENEFIT PLAN, and any employer may subsequently reenter the ~~association~~ STATEWIDE DEFINED BENEFIT PLAN, by filing with the board a resolution adopted by the employer pursuant to subparagraph (III) of this paragraph (b), no less than twelve months prior to the effective date of withdrawal or reentry unless a shorter waiting period is approved by the board. The effective date of withdrawal or reentry shall be January 1 of the year following the waiting period, but no withdrawal or reentry may become effective after January 1, 1985, except a withdrawal to establish a money purchase plan. No withdrawal to establish a money purchase plan may become effective after January 1, 1988, EXCEPT AS PROVIDED PURSUANT TO SECTION 31-30-1003.1.

(II) An employer that withdraws from the ~~association~~ STATEWIDE DEFINED BENEFIT

PLAN PRIOR TO JANUARY 2, 1988, as provided in this paragraph (b) shall establish and maintain a locally administered and financed alternative pension plan subject to the following:

(3) (b) Each member hired by an affiliating employer before April 8, 1978, shall irrevocably elect, not later than sixty days after affiliation, either to remain covered under the provisions of the local plan in effect on January 1, 1979, or to become covered under the provisions of the statewide DEFINED BENEFIT plan established by this part 10. In the event a member hired by an affiliating employer before April 8, 1978, fails to make such an election for any reason, the member shall be deemed to have elected to remain covered under the provisions of the local plan in effect on January 1, 1979. A member who elects to become covered under the statewide DEFINED BENEFIT plan established by this part 10 shall be deemed to have waived all rights to benefits under the local plan but shall receive full credit for all service credited under the local plan, and a member electing to remain covered under the local plan shall not be governed by the provisions of this part 10 relating to defined retirement benefits. The provisions of this paragraph (b) shall apply to members hired on or after April 8, 1978, but before January 1, 1980, who are covered under local plans pursuant to paragraph (b) of subsection (6) of this section. Such members shall make their irrevocable election not later than sixty days after affiliation or June 19, 1981, whichever occurs later.

(6) (a) Except as provided in paragraph (b) of this subsection (6), every employee employed as a fireman or policeman for the first time after April 7, 1978, shall be covered by the benefit provisions set forth in ~~or authorized~~ THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED by this part 10.

(7) A department chief shall be exempted from the provisions of this part 10, except sections 31-30-1005 (2), 31-30-1007, and 31-30-1008, upon the execution of a written agreement between such department chief and his employer and the submission of notice to the association. ALTERNATIVELY, A DEPARTMENT CHIEF, WITH THE AGREEMENT OF HIS EMPLOYER, MAY ELECT COVERAGE UNDER THE STATEWIDE MONEY PURCHASE PLAN. THE TRANSFER OF MEMBER AND EMPLOYER CONTRIBUTIONS BETWEEN THE STATEWIDE DEFINED BENEFIT PLAN AND THE STATEWIDE MONEY PURCHASE PLAN SHALL BE CONSISTENT WITH THE PROVISIONS OF SECTION 31-30-1003.1.

SECTION 3. 31-30-1003.5 (4), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

31-30-1003.5. Optional affiliation by social security employers.

(4) Notwithstanding the provisions of subsection (3) of this section, if an employer which elects to affiliate as to retirement pursuant to this section provides only social security coverage for retirement, each member of such employer shall become covered under the retirement provisions of the statewide DEFINED BENEFIT plan established by this part 10. All members hired by an employer which elects to affiliate as to retirement pursuant to this section after the effective date of such affiliation shall be covered under the retirement provisions of the statewide DEFINED BENEFIT plan established by this part 10. All members of an employer which elects to affiliate as to disability pursuant to this section shall be covered under the death and disability provisions of the statewide DEFINED BENEFIT plan established by this

part 10.

SECTION 4. 31-30-1006 (1) (a), (3), and (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

31-30-1006. Normal retirement - statewide defined benefit plan. (1) (a) Any member COVERED BY THE STATEWIDE DEFINED BENEFIT PLAN who has completed at least twenty-five years of active service and has attained the age of sixty years shall be eligible for a normal retirement pension, but any member shall be eligible for a normal retirement pension at any time after attaining the age of fifty-five years if his employer has certified to the board that there is no available position for which such member is qualified. 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.

(3) 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 31-30-1007 may elect to retire from active service and shall be eligible for an early retirement pension. The annual early retirement pension for a member shall be the normal retirement pension provided by subsection (1) of this section reduced by one-half of one percent of the normal retirement pension per month for each month or portion thereof that such member is less than sixty years of age at the time of such election.

(6) All service of a member who is employed by successive employers shall be aggregated for determining eligibility and benefits provided by this section if the service for each employer was rendered while the employer covered its members under the STATEWIDE DEFINED BENEFIT plan established by this part 10. The service of a member who is employed by successive employers shall be aggregated for determining eligibility and benefits provided by THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED BY this part 10 if the service for any employer was rendered while the employer did not cover its members under the STATEWIDE DEFINED BENEFIT plan established by this part 10 only on the basis of the agreements made with the board.

SECTION 5. The introductory portion to 31-30-1006.5 (1) and 31-30-1006.5 (2), (3), and (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

31-30-1006.5. Modification of state plan by the board. (1) Notwithstanding any other provision of this part 10, the board may modify the pension benefits and the age and service requirements for pension benefits set forth in this part 10 with respect to the members of the statewide DEFINED BENEFIT plan if:

(2) In no event shall the board adopt a modification which reduces the statewide DEFINED BENEFIT plan's normal retirement age below that permitted by section 31-30-1006 (1) (b).

(3) The board shall adopt rules and regulations setting forth the procedures for the member election required by paragraph (d) of subsection (1) of this section. Each employer having members in the statewide DEFINED BENEFIT plan shall comply with the procedures established by the board and shall certify the results of any member

election to the board as prescribed by the board's rules and regulations.

(4) A written copy of the language of any ~~plan~~ modifications TO THE STATEWIDE DEFINED BENEFIT PLAN adopted by the board pursuant to this section shall be kept and maintained by the board at its offices and be made available for copying and inspection by any interested party.

SECTION 6. 31-30-1007 (7), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

31-30-1007. Retirement for disability. (7) The benefits payable under this section to any member, who at the time of the award of such benefits is employed by any employer who has withdrawn from the association or has an exempt alternative plan referred to in section 31-30-1003 (2) (a) (III) and is maintaining a locally financed and administered alternative money purchase pension plan OR IS PARTICIPATING IN THE STATEWIDE MONEY PURCHASE PLAN, shall be reduced by an amount which is the actuarial equivalent of the benefits such member receives from the money purchase plan, whether the benefits received from the money purchase plan are paid on a periodic basis or in a lump sum. No such reduction shall exceed the actuarial equivalent of money purchase plan benefits if such benefits had been funded at the same rate of contributions specified in section 31-30-1013 (1) and (2) as are required for benefits under section 31-30-1006.

SECTION 7. 31-30-1008 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

31-30-1008. Death of member - survivor benefits. (3) The benefits payable under this section to the surviving spouse and dependent children of any member, who at the time of his death was employed by any employer who has withdrawn from the association or has an exempt alternative plan referred to in section 31-30-1003 (2) (a) (III) and is maintaining a locally financed and administered alternative money purchase pension plan OR IS PARTICIPATING IN THE STATEWIDE MONEY PURCHASE PLAN, shall be reduced by an amount which is the actuarial equivalent of the benefits such surviving spouse and dependent children receive from the money purchase plan, whether the benefits received from the money purchase plan are paid on a periodic basis or in a lump sum. No such reduction shall exceed the actuarial equivalent of money purchase plan benefits if such benefits had been funded at the same rate of contributions specified in section 31-30-1013 (1) and (2) as are required for benefits under section 31-30-1006.

SECTION 8. 31-30-1010 (1) and (4), Colorado Revised Statutes, 1986 Repl. Vol., are amended to read:

31-30-1010. Adjustment of benefits. (1) The benefits payable under THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED BY this part 10 AND THOSE PAYABLE PURSUANT TO SECTION 31-30-1007 AND 31-30-1008 shall be redetermined effective October 1 each year, and such redetermined amount shall be payable for the following twelve months. To be eligible for redetermination, such benefits shall have been paid for at least twelve calendar months prior to the effective date of redetermination. The annual redetermination of benefits provided in this section shall be required only for those employers not exempted by section 31-30-1003 (2) which,

on January 1, 1980, were providing an annual cost of living adjustment to pension benefits provided pursuant to this article, and the annual redetermination of benefits made pursuant to this section shall be in lieu of any other annual cost of living adjustment except for employer-determined and locally financed rank escalation benefits allowed in section 31-30-1014 (4) (b) (II).

(4) The cost of the adjustment of benefits provided by this section shall be funded in the same manner as other DEFINED benefits established by this part 10.

SECTION 9. 31-30-1011 (1), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

31-30-1011. Return or transfer of contributions. (1) (a) Any member covered by the ~~retirement~~ STATEWIDE DEFINED BENEFIT plan established by this part 10 and terminating his service may elect to have his accumulated contributions refunded to him in a lump sum and shall sign a statement to be filed with his employer evidencing such election and acknowledging that said member has no right to benefits provided by this part 10. A member shall only be eligible for a refund, from the association, of the contributions paid by him to the association and any of his contributions that have been transferred to the association by an affiliating employer. Nothing in this subsection (1) shall prevent a member from obtaining a refund to which he may be entitled from a nonaffiliating employer pursuant to policies established by said employer prior to December 1, 1978. In addition to receiving his accumulated contributions, the member shall also receive, as interest, five percent of his total accumulated contributions. The contributions refunded pursuant to this subsection (1) shall not include contributions other than those required to be made by the member, and the return of contributions shall be made within one hundred twenty days.

(b) If the member who terminated his service subsequently returns to service as an active member WITH AN EMPLOYER WHICH COVERS ITS MEMBERS UNDER THE STATEWIDE DEFINED BENEFIT PLAN, his prior service credit shall be restored when he returns his refunded contributions, with interest to the date of refund. If the member fails to return such contributions and interest, he shall be treated as a new member and his prior service shall not be recognized in determining pension eligibility or pension benefits.

SECTION 10. 31-30-1012.5 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

31-30-1012.5. Actuarial account and stabilization reserve account - creation - allocation - annual actuarial study. (2) In each year after 1987, the board may allocate additional deposits to the new hire benefits account between the actuarial account and the stabilization reserve account based upon the actuarial study for the previous year. If in any year the total amount of additional deposits to the new hire benefits account is not sufficient to meet the benefit liabilities funded by the actuarial account, then such additional amount as may be necessary to fund the increase shall be transferred from the stabilization reserve account to the actuarial account. If in any year the total amount of additional deposits to the new hire benefits account exceeds the amount required to meet any increase in the benefit liabilities funded by the actuarial account, the board, in its sole discretion, may allocate all or any part of such excess to the stabilization reserve account. Any excess allocated to the

stabilization reserve account in any year shall be allocated from that portion of deposits to the new hire benefits account constituting employer contributions to the STATEWIDE DEFINED BENEFIT plan established by this part 10.

SECTION 11. 31-30-1013 (1), (2), and (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

31-30-1013. 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 10 shall pay into the FIRE AND POLICE MEMBERS' BENEFIT fund eight percent of salary paid. The payment shall be made by the employer by deduction from the salary paid such member. Each employer shall pick up the employee contributions required for all salaries paid after JULY 1, 1985, and the contributions so picked up shall be treated as employer contributions pursuant to section 414(h)(2) of the "Internal Revenue Code of 1954", as amended, in determining tax treatment under such code. The employer shall pay these employee contributions directly to the retirement association, instead of paying such amounts to employees, and such contributions shall be paid from the same funds which are used in paying salaries to the employees. Such contributions, although designated as employee ~~contribution~~ CONTRIBUTIONS, shall be paid by the employer in lieu of contributions by employees. Employees may not elect to choose to receive such contributions directly instead of having them paid by the employer to the pension plan. Employee contributions so picked up shall be treated for all purposes of this article, other than federal tax, in the same manner as employee contributions made before the date picked up. Payment shall be made by one voucher for the aggregate amount deducted and shall be made no later than the tenth day after the end of each pay period. All such payments shall be credited to the FIRE AND POLICE MEMBERS' BENEFIT fund.

(2) On and after January 1, 1980, until the board is able to determine a contribution rate from the first annual actuarial valuation, every employer employing members who are covered by the STATEWIDE DEFINED BENEFIT plan established by this part 10 shall pay into the FIRE AND POLICE MEMBERS' BENEFIT fund eight percent of the salary paid to such member, and such payment shall be made no later than the tenth day after the end of each pay period. All such payments shall be credited to the FIRE AND POLICE MEMBERS' BENEFIT fund.

(3) It is declared to be the intent of the general assembly that the rates of employee and employer contributions shall be adequate to fund benefit liabilities accrued under THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED BY this part 10, 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. No later than January 1 of each year, commencing January 1, 1993, the board shall certify the amount of the state contribution to be made pursuant to section 31-30-1014 (2) (c) based on such actuarial valuation. Amortization of such liability over a forty-year period shall be deemed adequate to maintain actuarial stability. If the actual financial experience of the NEW HIRE BENEFITS ACCOUNT IN THE FIRE AND POLICE MEMBERS' BENEFIT fund is found to be more or less favorable than the assumed experience during the two-year period from January 1, 1980, and each biennium thereafter,

adjustments may be made by the board in the employee and employer contributions as may be deemed feasible and advisable so long as employer contributions are at least equal to employee contributions.

SECTION 12. 31-30-1016, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

31-30-1016. Fund not subject to levy. Except for assignments for child support purposes as provided for in sections 14-10-118 (1) and 14-14-107, C.R.S., and except for writs of garnishment which are the result of a judgment taken for arrearages for child support or for child support debt, no portion of the funds created pursuant to ~~sections 31-30-1012~~ SECTIONS 31-30-1005.3, 31-30-1012, and 31-30-1012.3, before or after their order for distribution by the board to the persons entitled thereto, shall be held, seized, taken, subjected to, detained, or levied on by virtue of any attachment, execution, injunction, writ, interlocutory or other order or decree, or process or proceeding whatsoever issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand, or judgment against the fire and police pension association or employers that belong to such association or the beneficiary of said funds. Said funds shall be held and distributed for the purpose of this part 10 and for no other purpose whatsoever.

SECTION 13. 31-30-1017 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

31-30-1017. Separate retirement account - creation - allocation. (1) For accounting purposes only, the stabilization reserve account created by section 31-30-1012.5 (1) (b) shall consist of individual separate retirement accounts established in the name of each member covered by the ~~normal retirement provisions~~ of STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED BY this part 10, except such members as are covered on a supplemental basis pursuant to section 31-30-1003.5.

SECTION 14. The introductory portion to 31-30-1019 (2) and 31-30-1019 (2) (g), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

31-30-1019. Qualification requirements - internal revenue code. (2) The statewide ~~pension~~ DEFINED BENEFIT plan established by this part 10 to provide retirement benefits for members hired on or after April 8, 1978, shall satisfy the qualification requirements specified in section 401 of the internal revenue code, as applicable to governmental plans. In order to meet those requirements, the statewide ~~pension~~ DEFINED BENEFIT plan is subject to the following provisions, notwithstanding any other provision of this part 10:

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

SECTION 15. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 12, 1993