

CHAPTER 174

GOVERNMENT - MUNICIPAL

HOUSE BILL 94-1249

BY REPRESENTATIVES Reeves, Coffman, Greenwood, Hagedorn, and Kerns;
also SENATORS Ruddick and Tebedo.

AN ACT

CONCERNING INVESTMENT OF ASSETS IN POLICEMEN'S AND FIREMEN'S EXEMPT ALTERNATIVE PENSION PROGRAMS.

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

SECTION 1. 31-30-1012 (8), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

31-30-1012. Fund - creation - management. (8) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (8), moneys of EXEMPT ALTERNATIVE PROGRAMS OF employers which are not in the fund may be invested as provided in subsection (5) of this section, but such investments shall meet earning performance standards established by the board and shall be audited at least biennially.

(b) (I) NOTWITHSTANDING ANY CONTRARY PROVISION IN SUBSECTION (5) OF THIS SECTION, ASSETS OF AN EXEMPT ALTERNATIVE PROGRAM MAY BE INVESTED IN CORPORATE STOCKS, CORPORATE BONDS, NOTES, OR DEBENTURES THAT ARE CONVERTIBLE INTO CORPORATE STOCKS, OR INVESTMENT TRUST SHARES PURSUANT TO THE FOLLOWING CONDITIONS:

(A) THE ORIGINAL COST OF ALL SUCH INVESTMENTS SHALL NOT EXCEED SIXTY-FIVE PERCENT OF THE THEN CURRENT MARKET VALUE OF ALL ASSETS IN THE EXEMPT ALTERNATIVE PROGRAM; AND

(B) THE FIDUCIARY OF THE EXEMPT ALTERNATIVE PROGRAM IS RESPONSIBLE FOR INVESTING THE ASSETS OF THE PROGRAM PURSUANT TO THE INVESTMENT STANDARDS PROVIDED IN SECTION 15-1-304, C.R.S., EXCEPT TO THE EXTENT THE FIDUCIARY ALLOWS A PARTICIPANT TO EXERCISE CONTROL OF INVESTMENTS PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (b).

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

(II) THE FIDUCIARY MAY ALLOW A PARTICIPANT TO EXERCISE CONTROL OF THE INVESTMENT OF THE PARTICIPANT'S ACCRUED BENEFIT UNDER THE PROGRAM, SUBJECT TO THE FOLLOWING REQUIREMENTS:

(A) THE FIDUCIARY SHALL SELECT AT LEAST THREE INVESTMENT ALTERNATIVES, EACH OF WHICH IS DIVERSIFIED IN ITSELF, THAT ALLOW THE PARTICIPANT A BROAD RANGE OF INVESTMENTS AND A MEANINGFUL CHOICE BETWEEN RISK AND RETURN IN THE INVESTMENT OF THE PARTICIPANT'S ACCRUED BENEFIT;

(B) THE FIDUCIARY SHALL ALLOW THE PARTICIPANT TO CHANGE INVESTMENTS AT LEAST ONCE EACH CALENDAR QUARTER; AND

(C) THE FIDUCIARY SHALL PROVIDE THE PARTICIPANT WITH INFORMATION DESCRIBING THE INVESTMENT ALTERNATIVES AND THE NATURE, INVESTMENT PERFORMANCE, FEES, AND EXPENSES OF THE INVESTMENT ALTERNATIVES AND OTHER INFORMATION TO ENABLE A PARTICIPANT TO MAKE INFORMED INVESTMENT DECISIONS.

(III) NEITHER THE STATE NOR LOCAL GOVERNMENTS SHALL BE HELD RESPONSIBLE TO PAY FOR ANY OR ALL FINANCIAL LOSSES EXPERIENCED BY PARTICIPANTS OF THE EXEMPT ALTERNATIVE PROGRAM; EXCEPT THAT NOTHING IN THIS SUBSECTION (8) RELIEVES A LOCAL GOVERNMENT'S RESPONSIBILITY AS A FIDUCIARY TO THE PROGRAM.

(IV) FOR THE PURPOSES OF THIS SUBSECTION (8), "EXEMPT ALTERNATIVE PROGRAM" MEANS ANY OF THE FOLLOWING:

(A) A FIRE AND POLICE PENSION PROGRAM ESTABLISHED PURSUANT TO SECTION 31-30-325, 31-30-417, 31-30-522, OR 31-30-621;

(B) A MONEY PURCHASE PENSION PLAN ESTABLISHED PURSUANT TO SECTION 31-30-1003 (2) (b);

(C) A MONEY PURCHASE PENSION PLAN ESTABLISHED PURSUANT TO SECTION 31-30-1003.3; OR

(D) ANY OTHER LOCAL FIRE AND POLICE PENSION PLAN COVERING MEMBERS WITH MONEYS THAT ARE NOT IN THE FUND.

SECTION 2. 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 28, 1994