

CHAPTER 217

GOVERNMENT - MUNICIPAL

SENATE BILL 95-228

BY SENATORS Rizzuto, Lacy, Blickensderfer, Feeley, Gallagher, Pascoe, Perlmutter, Schroeder, Bishop, Casey, Dennis, Hopper, Martinez, Mutzebaugh, Norton, L. Powers, R. Powers, and Tanner;
also REPRESENTATIVES Grampas, Owen, Romero, Allen, Faatz, and Schwarz.

AN ACT**CONCERNING FUNDING OF STATE-ASSISTED POLICEMEN'S AND FIREMEN'S PENSION PLANS.**

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

SECTION 1. Legislative declaration. (1) The general assembly declares that a change in funding standards for state-assisted policemen's and firemen's pension plans that provides for a higher, level rate of contributions will more rapidly eliminate the unfunded accrued liabilities in such plans and will ensure termination of state assistance at the earliest possible date. The general assembly intends by this act to establish a level funding standard for such plans and to establish a higher annual state contribution to such plans through the year 2009. The new level funding standard and the higher state contribution are intended to accelerate the projected year in which unfunded accrued liabilities in such plans are eliminated from the year 2024 to the year 2009.

(2) The general assembly further declares and intends that this act is only the first step in its review of state assistance to pension and benefit plans for paid firefighters and police officers. During the 1996 regular legislative session, the general assembly intends to study the issue of continuing state assistance to the statewide death and disability program established by part 10 of article 30 of title 31, Colorado Revised Statutes. Such study will include review of the recommendations of the fire and police pension association concerning the current benefit and funding structure of the statewide death and disability program that are submitted to the policemen's and firemen's pension reform commission established under section 31-30-901, Colorado Revised Statutes, and the joint budget committee of the general assembly established under section 2-3-201, Colorado Revised Statutes, before the 1996 regular legislative session.

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

SECTION 2. 31-30-805 (2) (a), (2.5), (5) (a) (II), and (8), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 31-30-805 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

31-30-805. Limitation on existing funds - procedures. (2) (a) Except as provided in ~~subsection~~ SUBSECTIONS (3) AND (3.5) of this section, annual contributions to state-assisted policemen's and firemen's pension funds shall be made, beginning January 1, 1982, at an annual rate which is equal to or greater than the sum of the actuarially determined amount required to amortize, over a period of not more than thirty-seven years from January 1, 1982, the unfunded accrued liabilities of such plan and the current service cost attributable to active members.

(2.5) (a) The general assembly finds and determines that it has contributed substantial sums to the program established by this part 8 AND that the state has a responsibility to evaluate the advisability of its contribution in light of its own fiscal situation. ~~and that there should be no need to increase the amount of the employee and employer contributions required for the unfunded accrued liability of any such plan pursuant to this part 8 by reason of the reduction of the state's contribution for the year 1987.~~

(b) ~~Annual contributions to state-assisted policemen's and firemen's pension funds made by municipalities, special districts, county improvement districts, and employees pursuant to this part 8 shall not be increased to compensate for the reduction of state assistance for the year 1987 pursuant to section 31-30-1014 (5).~~

(c) ~~The board of directors of the fire and police pension association shall report to the commission its experience in implementing this subsection (2.5).~~

(2.7) NO LATER THAN SEPTEMBER 1, 1995, THE BOARD OF DIRECTORS OF THE FIRE AND POLICE PENSION ASSOCIATION SHALL CERTIFY TO THE STATE AUDITOR, THE LEGISLATIVE AUDIT COMMITTEE AND THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, AND THE STATE TREASURER THE AMOUNT OF STATE CONTRIBUTION NECESSARY TO FUND THE SUPPLEMENTAL UNFUNDED LIABILITY IN EACH STATE-ASSISTED POLICEMEN'S OR FIREMEN'S PENSION PLAN ATTRIBUTABLE TO THE REDUCTION OF THE STATE'S CONTRIBUTION FOR THE YEAR 1987. ON SEPTEMBER 30, 1995, THE STATE TREASURER SHALL TRANSFER THE AMOUNT CERTIFIED FROM THE GENERAL FUND TO THE FUND CREATED BY SECTION 31-30-1012, AND FROM SUCH AMOUNT THE BOARD SHALL DISTRIBUTE TO EACH STATE-ASSISTED POLICEMEN'S OR FIREMEN'S PENSION PLAN THE AMOUNT NECESSARY TO ELIMINATE THE SUPPLEMENTAL UNFUNDED LIABILITY IN EACH PLAN; EXCEPT THAT THE AMOUNT TRANSFERRED BY THE STATE TREASURER PURSUANT TO THIS SUBSECTION (2.7) SHALL NOT EXCEED TWENTY-FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS.

(3.5) (a) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (3.5), BEGINNING JULY 1, 1995, ANNUAL EMPLOYER CONTRIBUTIONS TO STATE-ASSISTED POLICEMEN'S AND FIREMEN'S PENSION FUNDS SHALL BE MADE AT LEAST AT AN ANNUAL RATE THAT IS THE LESSER OF THE FOLLOWING:

(I) THE 1993 MINIMUM ANNUAL REQUIRED TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS ESTABLISHED BY THE JANUARY 1, 1992, ACTUARIAL STUDIES

PERFORMED ON SUCH FUNDS UNDER SECTION 31-30-1014.5, LESS THE DOLLAR AMOUNT OF MEMBER CONTRIBUTIONS PAID IN CALENDAR YEAR 1993 AND LESS THE DOLLAR AMOUNT OF STATE CONTRIBUTIONS RECEIVED IN CALENDAR YEAR 1994; OR

(II) THE AMOUNT THAT IS CERTIFIED BY THE ACTUARY WHO IS DESIGNATED BY THE FIRE AND POLICE PENSION ASSOCIATION UNDER SECTION 31-30-1014.5 TO BE NECESSARY AS OF JULY 1, 1995, TO PAY CURRENT SERVICE COSTS AND ELIMINATE ALL UNFUNDED LIABILITIES IN ANY SUCH FUND NO LATER THAN DECEMBER 31, 2009, IF ANNUAL MEMBER CONTRIBUTIONS ARE MADE AS REQUIRED BY SUBSECTION (5) OF THIS SECTION AND IF ANNUAL STATE CONTRIBUTIONS EQUAL TO THE AMOUNT RECEIVED IN CALENDAR YEAR 1994 ARE MADE.

(b) ANNUAL EMPLOYER CONTRIBUTIONS TO STATE-ASSISTED POLICEMEN'S AND FIREMEN'S PENSION FUNDS SHALL CONTINUE AT THE RATE ESTABLISHED BY THIS SUBSECTION (3.5) AFTER THE YEAR 2009, IF NECESSARY, UNTIL ALL UNFUNDED ACCRUED LIABILITY IN THE EMPLOYERS' STATE-ASSISTED POLICEMEN'S AND FIREMEN'S PENSION PLANS IS ELIMINATED AND IF ANNUAL STATE CONTRIBUTIONS ARE MADE THROUGH SEPTEMBER 30, 2009, IN THE AMOUNT ESTABLISHED UNDER SECTION 31-30-1014 (5).

(c) IF IN ANY YEAR THE ANNUAL STATE CONTRIBUTION TO STATE-ASSISTED POLICEMEN'S AND FIREMEN'S PENSION FUNDS IS LESS THAN THE AMOUNT CONTRIBUTED UNDER SECTION 31-30-1014 (5) ON SEPTEMBER 30, 1995, EMPLOYER CONTRIBUTIONS TO SUCH FUNDS SHALL BE DETERMINED UNDER PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

(d) IN ADDITION TO THE CONTRIBUTIONS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3.5), THE EMPLOYER MUST ANNUALLY PAY ANY REQUIRED DOLLAR AMOUNT OF CONTRIBUTIONS NECESSARY TO FUND ADDITIONAL PLAN BENEFITS ADOPTED UNDER SECTION 31-30-1005 (6), AS ESTABLISHED BY SUPPLEMENTAL ACTUARIAL STUDIES ON SUCH FUNDS.

(5) (a) (II) A rate of contribution lower than the minimums set forth in subparagraph (I) of this paragraph (a) may be established by the governing body if, excluding any state contribution, the lower rate would meet the minimum funding provisions of ~~subsection~~ SUBSECTIONS (2) AND (3.5) of this section and if the rate of contribution of the employer at least equals the employee rate.

(8) Notwithstanding any other provision of this section EXCEPT SUBSECTION (3.5) OF THIS SECTION, the maximum annual increase in contributions to a state-assisted policemen's or firemen's pension fund required of any employer by this section shall not exceed one-half of the employer's contribution rate as a percentage of salary to the fund during the immediately preceding year; but this maximum limitation shall not apply where its application would result in an annual employer contribution of less than five percent of salary.

SECTION 3. 31-30-1003 (3) (e), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

31-30-1003. Applicability of plan. (3) (e) An employer ~~which~~ THAT affiliates pursuant to this subsection (3) AND THAT IS NOT RECEIVING STATE CONTRIBUTIONS

UNDER SECTION 31-30-1014 (4) shall annually contribute an amount approved by the board, upon advice of its actuary, to pay the normal cost plus amortize the unfunded past service liability attributed to members hired prior to April 8, 1978, over a period of forty years from January 1, 1982. ~~except that, for the year beginning January 1, 1987, and each year thereafter,~~ FOR ANY STATE-ASSISTED POLICEMEN'S OR FIREMEN'S PENSION PLAN, BEGINNING JULY 1, 1995, the amount approved by the board, upon advice of its actuary, pursuant to this paragraph (e), shall be in conformity with the provisions of section ~~31-30-805 (2.5)~~ 31-30-805 (3.5).

SECTION 4. 31-30-1014 (4) (a) and (4) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

31-30-1014. State contribution. (4) (a) After the disbursements made pursuant to subsections (2) and (3) of this section, any moneys allocated for distribution remaining in the fund shall be distributed by the board annually to any ~~employer~~ FUND OF A PLAN ESTABLISHED PURSUANT TO PART 3, 4, 5, OR 6 OF THIS ARTICLE having an ~~accrued~~ unfunded ACCRUED liability to assist in amortizing such ~~accrued~~ unfunded ACCRUED liability as determined in the ~~report of the state auditor to the commission created by part 9 of this article, which report was submitted no later than September 1, 1978, or as updated by the state auditor.~~ Moneys JANUARY 1, 1994, ACTUARIAL STUDIES PERFORMED UNDER SECTION 31-30-1014.5. BEGINNING IN 1995 AND IN EACH YEAR THROUGH 2009, EACH SUCH FUND HAVING AN UNFUNDED ACCRUED LIABILITY shall be credited to the various employers in proportion to the percentage of aggregate ~~accrued unfunded liabilities each employer represents,~~ but WITH THAT AMOUNT OF STATE CONTRIBUTIONS THAT IT RECEIVED IN 1994 TO ASSIST IN RETIRING ITS UNFUNDED LIABILITY. IN ADDITION, IF THE ANNUAL EMPLOYER CONTRIBUTION AMOUNT ESTABLISHED BY SECTION 31-30-805 (3.5) WILL RESULT IN TOTAL EMPLOYER CONTRIBUTIONS TO ANY SUCH FUND THAT, ON A PRESENT VALUE BASIS AS DETERMINED BY THE ASSOCIATION, ARE MORE THAN FIVE PERCENT HIGHER THAN WHAT THE ESTIMATED TOTAL EMPLOYER CONTRIBUTIONS TO SUCH FUND WOULD HAVE BEEN BUT FOR SECTION 31-30-805 (3.5), THEN EACH SUCH FUND SHALL RECEIVE THAT AMOUNT OF SUPPLEMENTAL STATE CONTRIBUTIONS SUFFICIENT TO ELIMINATE, ON A PRESENT VALUE BASIS, THE ESTIMATED AGGREGATE INCREASE IN EMPLOYER CONTRIBUTIONS ATTRIBUTABLE TO THE ENACTMENT OF SECTION 31-30-805 (3.5). ANY REMAINING STATE CONTRIBUTIONS SHALL BE DISTRIBUTED TO EACH SUCH FUND BASED UPON THE AMOUNT, AS DETERMINED BY AN INDEPENDENT ACTUARIAL REVIEW AND CERTIFIED BY THE BOARD TO THE JOINT BUDGET COMMITTEE EACH DECEMBER 1, THAT IS CONSISTENT WITH THE GENERAL ASSEMBLY'S INTENT THAT THE UNFUNDED LIABILITIES IN ALL SUCH FUNDS WILL BE ELIMINATED NO LATER THAN DECEMBER 31, 2009. IF IN ANY YEAR THE ANNUAL STATE CONTRIBUTION FOR UNFUNDED LIABILITIES IS LESS THAN THE AMOUNT CONTRIBUTED UNDER SUBSECTION (5) OF THIS SECTION ON SEPTEMBER 30, 1995, EACH SUCH FUND HAVING AN UNFUNDED ACCRUED LIABILITY SHALL BE CREDITED WITH STATE CONTRIBUTIONS IN PROPORTION TO THE PERCENTAGE OF AGGREGATE UNFUNDED ACCRUED LIABILITIES EACH SUCH FUND REPRESENTS, EXCLUDING ANY UNFUNDED LIABILITIES ATTRIBUTABLE TO ADDITIONAL PLAN BENEFITS ADOPTED UNDER SECTION 31-30-1005 (6). No money shall be distributed pursuant to this subsection (4) to an employer having rank escalation for members hired before April 8, 1978, which is not in the association. For the purposes of this subsection (4), "rank escalation" means the addition to the amount of the retirement pension or disability benefit being received of a fixed percentage of any increase in salary, as well as longevity or additional pay based on length of service, granted the

rank a member occupied before retiring or being disabled.

(c) State contributions to an employer pursuant to this subsection (4) shall cease when the minimum employer and employee contributions required pursuant to the provisions of part 8 of this article result in an actuarially sound fund THE UNFUNDED LIABILITIES IN ALL FUNDS RECEIVING SUCH CONTRIBUTIONS ARE ELIMINATED, BUT NO LATER THAN DECEMBER 31, 2009.

SECTION 5. 31-30-1014 (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

31-30-1014. State contribution. (5) On September 30 of each year THROUGH 1994, the state treasurer shall transfer twenty million dollars from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the fund created by section 31-30-1012. However, on September 30, 1987, the amount transferred shall be five million five hundred thousand dollars and not twenty million dollars, which shall be used for the purposes set forth in subsections (2) and (3) of this section. ON SEPTEMBER 30, 1995, AND ON SEPTEMBER 30 OF EACH YEAR THEREAFTER THROUGH 2009, THE ANNUAL AMOUNT TRANSFERRED BY THE STATE TREASURER SHALL BE TWENTY-SIX MILLION SIX HUNDRED THOUSAND DOLLARS. Such annual transfer to the fund UNDER THIS SUBSECTION (5), EXCEPT AMOUNTS TRANSFERRED FOR FUNDING VOLUNTEER FIREMEN PENSION FUNDS PURSUANT TO PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, shall cease when the requirements of paragraph (c) of subsection (4) of this section have been met, and the final annual transfer may be in an amount less than ~~twenty~~ TWENTY-SIX million SIX HUNDRED THOUSAND dollars as determined from the total amount of ~~accrued~~ unfunded ACCRUED liability of employers described in the biennial report prepared pursuant to paragraph (d) of subsection (4) of this section. Moneys in said fund shall not revert to the general fund but shall be continuously available for the purposes provided in this part 10.

SECTION 6. 31-30-1014 (5), Colorado Revised Statutes, 1986 Rep. Vol., as amended by House Bill 95-1010, as enacted at the First Regular Session of the Sixtieth General Assembly, is amended to read:

31-30-1014. State contribution. (5) On September 30 of each year THROUGH 1994, the state treasurer shall transfer from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the fund created by section 31-30-1012, an amount equal to twenty million dollars. ~~minus the amount transferred under section 31-30-1112 (2) (g) (I).~~ However, on September 30, 1987, the amount transferred shall be five million five hundred thousand dollars and not twenty million dollars, which shall be used for the purposes set forth in subsection (2) of this section and for the purpose of funding volunteer firefighter pension plans provided by this article. ON SEPTEMBER 30, 1995, AND ON SEPTEMBER 30 OF EACH YEAR THEREAFTER THROUGH 2009, THE ANNUAL AMOUNT TRANSFERRED BY THE STATE TREASURER SHALL BE TWENTY-SIX MILLION SIX HUNDRED DOLLARS MINUS THE AMOUNT TRANSFERRED UNDER SECTION 31-30-1112 (2) (g) (I). Such annual transfer to the fund UNDER THIS SUBSECTION (5) shall cease when the requirements of paragraph (c) of subsection (4) of this section have been met, and the final annual transfer may be in an amount less than ~~twenty million dollars~~ THE AMOUNT PRESCRIBED BY THIS SUBSECTION (5) as determined from the total amount of ~~accrued~~ unfunded ACCRUED liability of employers described in the biennial report prepared pursuant to paragraph (d) of subsection (4) of this section.

Moneys in said fund shall not revert to the general fund but shall be continuously available for the purposes provided in this part 10 and part 11 of this article.

SECTION 7. Adjustment to the 1995 long bill. For the implementation of this act, the amount included for informational purposes in the annual general appropriation act for the fiscal year beginning July 1, 1995, for the department of the treasury for allocation to the fire and police pension association, shall be increased by thirty-two million one hundred thousand dollars (\$32,100,000).

SECTION 8. Effective date. This act shall take effect as follows:

(1) Section 5 of this act shall take effect July 1, 1995, if House Bill 95-1010 is not enacted at the First Regular Session of the Sixtieth General Assembly.

(2) Section 6 of this act shall take effect July 1, 1995, if House Bill 95-1010 is enacted at the First Regular Session of the Sixtieth General Assembly.

(3) The remainder of this act shall take effect July 1, 1995.

SECTION 9. 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: May 25, 1995

Editor's note: The appropriation in section 31-30-1014 (5), as contained in section 6 of this act, specifies an annual transfer of "twenty-six million six hundred dollars". However, it appears that the amount specified should have been "twenty-six million six hundred thousand dollars" because the statutory section is a duplication of section 5 of the act that was added to resolve a conflict with another bill, House Bill No. 95-1010. Section 31-30-1014 (5), as contained in section 5, specified "twenty-six million six hundred thousand dollars".