

CHAPTER 89

GOVERNMENT - MUNICIPAL

HOUSE BILL 95-1128

BY REPRESENTATIVES Sullivant, Armstrong, Chlouber, George, Hernandez, Knox, and Taylor;
also SENATORS Hopper, Gallagher, Martinez, and Perlmutter.

AN ACT

CONCERNING OPTIONAL SURVIVOR BENEFITS FOR VOLUNTEER FIREFIGHTER.

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

SECTION 1. Part 4 of article 30 of title 31, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

31-30-415.3. Optional survivor benefits. (1) NOTWITHSTANDING THE PROVISIONS OF SECTION 31-30-415 (4), (5), (6), AND (10) RELATING TO PAYMENT OF ANNUITIES IN THE EVENT OF THE DEATH OF A VOLUNTEER FIREFIGHTER IN ACTIVE SERVICE, THE BOARD IN ANY MUNICIPALITY WITH THE PRIOR CONSENT OF THE GOVERNING BODY OF SUCH MUNICIPALITY, FIRE PROTECTION DISTRICT, OR COUNTY IMPROVEMENT DISTRICT HAVING A VOLUNTEER FIRE DEPARTMENT MAY PROVIDE TO THE ACTIVE MEMBERS OF THE VOLUNTEER FIRE DEPARTMENT THE OPTION OF HAVING THE SURVIVOR BENEFITS OFFERED BY THIS SECTION IN LIEU OF THE PURCHASE OF INDIVIDUAL, GROUP, OR BLANKET LIFE, ENDOWMENT, OR ANNUITY OR VARIABLE ANNUITY INSURANCE PURSUANT TO SECTION 31-30-415 (7) AND IN LIEU OF THE SURVIVOR BENEFITS PROVIDED TO ACTIVE VOLUNTEER FIREFIGHTERS PURSUANT TO SECTION 31-30-415 (4), (5), (6), AND (10) IF THE FOLLOWING CONDITIONS ARE MET:

(a) SIXTY-FIVE PERCENT OF THE ACTIVE AND RETIRED VOLUNTEER FIREFIGHTERS OF THE AFFECTED VOLUNTEER FIRE DEPARTMENT CONSENT IN WRITING TO THE OPTION PROVIDED BY THIS SECTION;

(b) AN ACTUARIAL REVIEW BY AN INDEPENDENT ACTUARY INDICATES THE OPTION PROVIDED BY THIS SECTION IS ACTUARIALLY SOUND AND WILL NOT IMPAIR THE ABILITY OF PENSION FUNDS TO PAY THE ANNUITIES TO A BENEFICIARY OR TO PAY

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

PENSIONS; AND

(c) IF A MUNICIPALITY INTENDS TO PROVIDE THE OPTION PROVIDED BY THIS SECTION, THE GOVERNING BOARD OF THE MUNICIPALITY CONSENTS TO THE OPTION.

(2) THE GOVERNING BODY OF A MUNICIPALITY OR THE BOARD OF A FIRE PROTECTION DISTRICT OR COUNTY IMPROVEMENT DISTRICT HAVING A VOLUNTEER FIRE DEPARTMENT THAT INTENDS TO PROVIDE THE OPTION PROVIDED BY THIS SECTION SHALL DETERMINE WHETHER THE SURVIVOR BENEFITS ARE ALLOWED ONLY IF THE VOLUNTEER FIREFIGHTER DIES WHILE ON DUTY AND SHALL DETERMINE THE BENEFIT AMOUNT EQUAL TO UP TO ONE HUNDRED PERCENT OF THE AMOUNT OF THE PENSION THE VOLUNTEER FIREFIGHTER WOULD HAVE BEEN ENTITLED TO UNDER THIS PART 4 IF THE VOLUNTEER FIREFIGHTER HAD RETIRED IMMEDIATELY BEFORE THE VOLUNTEER FIREFIGHTER'S DEATH. IF SURVIVOR BENEFITS ARE PROVIDED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO THE MEMBERS OF A VOLUNTEER FIRE DEPARTMENT AND IF A VOLUNTEER FIREFIGHTER WHO IS A MEMBER OF SUCH FIRE DEPARTMENT DIES ON DUTY OR, IF AUTHORIZED BY THE GOVERNING BODY OR BOARD, OFF DUTY, A SPOUSE, DEPENDENT CHILD, OR DEPENDENT PARENT OF THE VOLUNTEER FIREFIGHTER OR, LACKING SUCH DEPENDENTS, ANY OTHER BENEFICIARY WHO IS A NATURAL PERSON AND WHO HAS BEEN DESIGNATED BY THE VOLUNTEER FIREFIGHTER SHALL RECEIVE A MONTHLY ANNUITY IN THE AMOUNT DETERMINED PURSUANT TO THIS SUBSECTION (2).

(3) IF SURVIVOR BENEFITS ARE PROVIDED PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL PAY THE ANNUITY AUTHORIZED BY THIS SECTION TO THE DESIGNATED BENEFICIARY OR TO THE LEGAL GUARDIAN OF THE DESIGNATED BENEFICIARY WHO IS A CHILD UNDER THE AGE OF EIGHTEEN AS FOLLOWS:

(a) UNTIL THE DEATH OF THE BENEFICIARY;

(b) IF THE BENEFICIARY IS A CHILD UNDER THE AGE OF EIGHTEEN, UNTIL THE DEATH OF THE CHILD OR UNTIL THE CHILD IS EIGHTEEN YEARS OF AGE;

(c) IF THE BENEFICIARY IS A FULL-TIME STUDENT IN AN EDUCATIONAL OR VOCATIONAL INSTITUTION, UNTIL THE BENEFICIARY IS TWENTY-THREE YEARS OF AGE;

(d) IF THE BENEFICIARY IS THE SURVIVING SPOUSE, UNTIL THE SURVIVING SPOUSE REMARRIES; OR

(e) UNTIL THE PROCEEDS OF THE INSURANCE POLICIES PROVIDED IN SUBSECTION (4) OF THIS SECTION AND THE ACCRUED INTEREST ON SUCH INSURANCE PROCEEDS ARE EXHAUSTED.

(4) TO PAY THE COSTS OF THE OPTION PROVIDED PURSUANT TO THIS SECTION, THE BOARD SHALL INSURE MEMBERS OF THE VOLUNTEER FIRE DEPARTMENT BY INSURANCE POLICIES OF INDIVIDUAL, GROUP, OR BLANKET LIFE, ENDOWMENT, OR ANNUITY INSURANCE OR VARIABLE ANNUITY INSURANCE. THE PENSION FUND IS THE BENEFICIARY OF THESE INSURANCE POLICIES, AND THE PROCEEDS OF THESE INSURANCE POLICIES SHALL BE PAID TO THE BOARD AS AN ADDITION TO THE FUND. PAYMENT OF THE PREMIUMS ON THESE POLICIES SHALL BE PAID FROM THE EXISTING

PENSION FUND ASSETS, FROM ADDITIONAL LOCAL CONTRIBUTIONS MADE TO THE EXISTING PENSION FUND FOR PAYMENT OF THE PREMIUMS, OR BOTH; EXCEPT THAT, NOTWITHSTANDING THE PROVISIONS OF SECTION 31-30-1014 CONCERNING THE AMOUNT OF STATE CONTRIBUTIONS TO THE PENSION FUND, ADDITIONAL STATE CONTRIBUTIONS SHALL NOT BE MADE TO THE EXISTING PENSION FUND ASSETS FOR PAYMENT OF THE PREMIUMS ON THESE POLICIES OR AS A RESULT OF ADDITIONAL LOCAL CONTRIBUTIONS MADE TO THE EXISTING PENSION FUND FOR PAYMENT OF THE PREMIUMS.

(5) IF SURVIVOR BENEFITS ARE PROVIDED PURSUANT TO SUBSECTION (1) OF THIS SECTION AND IF A FIREFIGHTER TERMINATES ACTIVE DUTY BEFORE RETIREMENT, THE BOARD MAY ALLOW THE FIREFIGHTER TO PURCHASE ANY INSURANCE POLICY THAT WAS PURCHASED PURSUANT TO SUBSECTION (4) OF THIS SECTION AT A PRICE EQUAL TO THE CASH VALUE OF THE POLICY. IF THE FIREFIGHTER DOES NOT PURCHASE THE POLICY, THE BOARD SHALL SURRENDER THE POLICY FOR ITS CASH VALUE. MONEYS OBTAINED BY THE BOARD PURSUANT TO THIS SUBSECTION (5) SHALL BE DEPOSITED IN THE PENSION FUND AND USED TO PAY THE COSTS OF THE SURVIVOR BENEFITS PROVIDED PURSUANT TO THIS SECTION.

(6) THE SURVIVOR BENEFITS PROVIDED PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY BE TERMINATED AT ANY TIME BY EITHER:

(a) A VOTE TO TERMINATE BY THE GOVERNING BODY OF THE MUNICIPALITY OR THE BOARD OF THE FIRE PROTECTION DISTRICT OR COUNTY IMPROVEMENT DISTRICT HAVING A VOLUNTEER FIRE DEPARTMENT;

(b) A VOTE TO TERMINATE APPROVED BY SIXTY-FIVE PERCENT OF THE MEMBERS OF THE VOLUNTEER FIRE DEPARTMENT.

SECTION 2. 31-30-405 (1), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

31-30-405. State treasurer to pay over funds. (1) Moneys in said ~~firemen's~~ FIREFIGHTERS' pension fund shall be for the use and benefit of the members and their surviving spouses, dependent children, ~~and~~ dependent parents, AND OTHER BENEFICIARIES in accordance with the provisions of this part 4 and part 5 of this article.

SECTION 3. 31-30-415 (4), (5), (6), (9), and (10), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

31-30-415. Volunteer firefighters' pensions - blanket insurance. (4) If any volunteer member of any fire department in any municipality, fire protection district, or county improvement district dies from injuries received while in the line of duty as a ~~fireman~~ FIREFIGHTER, leaving a surviving spouse, it is the duty of the board in said municipality, fire protection district, or county improvement district to pay such surviving spouse, EXCEPT AS PROVIDED IN SECTION 31-30-415.3, a monthly annuity in such an amount as it deems proper and necessary, not to exceed one hundred fifty dollars per month, or within limits as are prescribed by municipal ordinance or by rules and regulations of the board of the affected municipality, fire protection district, or county improvement district so long as the surviving spouse remains unmarried.

No dissolution of a subsequent marriage shall have the effect of reinstating said surviving spouse on the pension or benefit roll or authorizing the granting of a pension or benefit.

(5) If there is no surviving spouse, as limited and described in subsection (4) of this section, but there is a surviving child under eighteen years of age, the said board shall order a monthly payment of an annuity, EXCEPT AS PROVIDED IN SECTION 31-30-415.3, in such amount as it deems proper or necessary, not to exceed an aggregate of one hundred fifty dollars per month, or within limits as prescribed by municipal ordinance or by rules and regulations of the board of the affected municipality, fire protection district, or county improvement district to the guardian of said child for said child, to continue until each such child reaches the age of eighteen years.

(6) In the event there is no surviving spouse, as limited and described in subsection (4) of this section, or child but there is a surviving dependent parent of said deceased ~~fireman~~ FIREFIGHTER, it is the duty of the board in said municipality, fire protection district, or county improvement districts to pay the dependent parent a monthly annuity, EXCEPT AS PROVIDED IN SECTION 31-30-415.3, in such an amount as it deems proper and necessary, not to exceed one hundred fifty dollars per month, or within limits as are prescribed by municipal ordinance or by rules and regulations of the board of the affected municipality, fire protection district, or county improvement district so long as the dependent parent remains unmarried. No dissolution of a subsequent marriage shall have the effect of reinstating said dependent parent on the pension or benefit roll or authorizing the granting of a pension or benefit.

(9) In the event of dissolution, for any reason, of fire departments whereby the services of ~~firemen~~ FIREFIGHTERS or fire departments are discontinued, the ~~firemen~~ FIREFIGHTERS or their surviving spouses, ~~and~~ dependent parents, ~~and~~ children, AND OTHER BENEFICIARIES receiving benefits at the time of such dissolution shall continue to receive such benefits in accordance with the provisions of this part 4. Assets of the pension funds shall be transferred with other assets of the department and shall be administered by the board of trustees of the successor pension fund. In no event shall the rate of compensation be altered either after commencement of proceedings for dissolution has occurred or after its completion. After attaining fifty years of age, any ~~fireman~~ FIREFIGHTER having accrued ten or more years of active service at the time of such dissolution shall be granted an annuity, prorated in accordance with the number of years of service and the amount of annuity being paid for age and service pensions by the board of trustees of such pension fund at the time of such dissolution.

(10) In the event of the death of any retired, pensioned volunteer ~~fireman~~ FIREFIGHTER or of any volunteer ~~fireman~~ FIREFIGHTER who has served the requisite number of years for retirement under subsection (8) of this section, regardless of age, who leaves a surviving spouse, the board of said fund may grant an annuity, EXCEPT AS PROVIDED IN SECTION 31-30-415.3, in a sum of money not to exceed fifty percent of the current pension payment for retired volunteer ~~firemen~~ FIREFIGHTERS if the pension fund is determined to be actuarially sound. In the event the ~~voluntary~~ VOLUNTEER ~~fireman~~ FIREFIGHTER has less than twenty years of active service, the annuity to the surviving spouse shall be prorated based upon the number of years of service. Said annuity to the surviving spouse shall remain in effect so long as the surviving spouse remains unmarried. No dissolution of a subsequent marriage shall

have the effect of reinstating said pension or benefit. No surviving spouse shall receive both an annuity pursuant to subsection (4) of this section and an annuity pursuant to this subsection (10).

SECTION 4. Part 4 of article 30 of title 31, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

31-30-401.5. Conforming of statutes. THE REVISOR OF STATUTES IS AUTHORIZED TO CHANGE ALL REFERENCES TO FIREMAN AND FIREMEN IN THIS ARTICLE TO FIREFIGHTER AND FIREFIGHTERS.

SECTION 5. 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 17, 1995