

CHAPTER 183

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**GOVERNMENT - MUNICIPAL**

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**SENATE BILL 96-011**

BY SENATORS Tebedo, R. Powers, Hernandez, and Weddig;  
also REPRESENTATIVES Reeves, Dean, Lamm, Saliman, Schwarz, Armstrong, Mace, Morrison, and Reeser.

**AN ACT**

**CONCERNING THE RECODIFICATION OF THE FIRE AND POLICE PENSION LAW, AND, IN CONNECTION THEREWITH, AMENDING AND RELOCATING PARTS 3 THROUGH 10 OF ARTICLE 30 OF TITLE 31, COLORADO REVISED STATUTES.**

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

**SECTION 1.** Title 31, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW ARTICLES CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

**ARTICLE 30.5**  
**Fire - Police - Old Hire Pension Plans**

**PART 1**  
**GENERAL PROVISIONS**

**31-30.5-101. [Formerly 31-30-301] Legislative declaration.** (1) The general assembly finds and determines that ~~the various policemen and~~ police officers, in saving and protecting the lives and property of the citizens and residents of the state of Colorado, are performing state duties and are rendering services of special benefit to this state and that it is the province, right, and obligation of the state of Colorado to care for members of the police force who are entitled to retirement because of length of service or old age or because they have been injured or disabled in service and also to care for the spouses, dependent parents, and dependent children of such police officers.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DETERMINES THAT THE ESTABLISHMENT OF FIREFIGHTERS' PENSION PLANS IN THIS STATE IS A MATTER OF

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*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 CONCERN THAT AFFECTS THE PUBLIC SAFETY AND GENERAL WELFARE.

**31-30.5-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE BOARD OF TRUSTEES ESTABLISHED AS THE GOVERNING BODY OF THE FIREFIGHTERS' OR POLICE OFFICERS' OLD HIRE PENSION FUND AS PROVIDED IN SECTIONS 31-30.5-202 AND 31-30.5-203.

(2) "EMPLOYER" MEANS ANY MUNICIPALITY IN THIS STATE OFFERING POLICE OR FIRE PROTECTION SERVICE EMPLOYING ONE OR MORE MEMBERS AND ANY SPECIAL DISTRICT OR COUNTY IMPROVEMENT DISTRICT IN THIS STATE OFFERING FIRE PROTECTION SERVICE EMPLOYING ONE OR MORE MEMBERS.

(3) "FUND" MEANS THE APPLICABLE FIREFIGHTERS' OR POLICE OFFICERS' PENSION FUND CREATED IN SECTION 31-30.5-201.

(4) "MEMBER" MEANS AN ACTIVE EMPLOYEE WHO IS A FULL-TIME SALARIED EMPLOYEE OF A MUNICIPALITY, FIRE PROTECTION DISTRICT, OR COUNTY IMPROVEMENT DISTRICT NORMALLY SERVING AT LEAST ONE THOUSAND SIX HUNDRED HOURS IN ANY CALENDAR YEAR AND WHOSE DUTIES ARE DIRECTLY INVOLVED WITH THE PROVISION OF POLICE OR FIRE PROTECTION, AS CERTIFIED BY THE EMPLOYEE'S EMPLOYER. THE TERM DOES NOT INCLUDE CLERICAL OR OTHER PERSONNEL WHOSE SERVICES ARE AUXILIARY TO POLICE OR FIRE PROTECTION.

**31-30.5-103. Applicability. [Formerly 31-30-1003 (1) and (6)]** (1) (a) Except as provided in subsection (2) of this section, every employer in this state shall provide the APPLICABLE pension benefits of the ~~statewide defined benefit~~ OLD HIRE POLICE OR FIRE PENSION plan established by this ~~part 10~~ ARTICLE for members hired on or ~~after April 8, 1978~~ BEFORE APRIL 7, 1978.

~~(6) (a) Except as provided in paragraph (b) of this subsection (6), every employee employed as a firefighter or policeman for the first time after April 7, 1978, shall be covered by the benefit provisions set forth in the statewide defined benefit plan established by this part 10.~~

(b) ~~Any employee who is~~ IN ADDITION TO PARAGRAPH (a) OF THIS SUBSECTION (1), EVERY EMPLOYER IN THIS STATE SHALL PROVIDE THE APPLICABLE PENSION BENEFITS OF THE OLD HIRE POLICE OR FIRE PENSION PLAN ESTABLISHED BY THIS ARTICLE FOR MEMBERS hired as a ~~fireman or policeman~~ on or after April 8, 1978, but before January 1, 1980, ~~shall be covered by the benefit provisions of part 3, 4, 5, or 6 of this article or any other local plan, as applicable, in effect for other employees hired on or before April 7, 1978, if:~~

(I) The ~~employee~~ MEMBER has prior service as a ~~fireman or policeman~~ FIREFIGHTER OR POLICE OFFICER in the state of Colorado;

(II) The current employer ~~approves~~ APPROVED coverage under ~~part 3, 4, 5, or 6 of this article~~ ITS OLD HIRE PENSION PLAN or any other local plan; ~~as applicable~~

(III) The ~~employee contributes~~ MEMBER CONTRIBUTED to the OLD HIRE pension

fund of the current employer the amount of money that ~~he~~ THE MEMBER would have paid if all ~~his~~ THE MEMBER'S prior service had been as an employee of the current employer, such makeup contribution to ~~be~~ HAVE BEEN paid over a three-year period; and

(IV) The ~~employee requests~~ MEMBER REQUESTED such coverage, in writing, on or before December 31, 1981.

(2) THE FOLLOWING MEMBERS, OTHERWISE ELIGIBLE TO PARTICIPATE IN AN OLD HIRE PENSION PLAN PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE EXEMPT FROM PARTICIPATION:

(a) MEMBERS COVERED UNDER AN EXEMPT PENSION PLAN ESTABLISHED BY PART 8 OF THIS ARTICLE;

(b) MEMBERS WHO, PURSUANT TO THE AFFILIATION OF THEIR OLD HIRE PENSION PLAN WITH THE FIRE AND POLICE PENSION ASSOCIATION AS PROVIDED BY SECTION 31-31-701 (2), ELECT TO BECOME COVERED UNDER THE PROVISIONS OF THE STATEWIDE DEFINED BENEFIT PLAN, ESTABLISHED BY ARTICLE 31 OF THIS TITLE; AND

(c) MEMBERS COVERED UNDER THE FEDERAL "SOCIAL SECURITY ACT", UNLESS THEIR EMPLOYER ALSO PROVIDES SUPPLEMENTAL RETIREMENT BENEFITS UNDER AN OLD HIRE PENSION PLAN.

(3) ALL MEMBERS MEETING THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION WHO ARE NOT OTHERWISE EXCLUDED FROM AN OLD HIRE PENSION PLAN COVERAGE UNDER SUBSECTION (2) OF THIS SECTION, SHALL BE REFERRED TO IN THIS ARTICLE AND ARTICLE 31 OF THIS TITLE AS "OLD HIRE MEMBERS".

## PART 2 ADMINISTRATION

**31-30.5-201. Funds created.** (1) [~~Formerly 31-30-501 (combines 31-30-501 and 31-30-401)~~] There is created and established in each ~~city and city and county in the state, where such city or city and county has a population of over one hundred thousand and has a paid fire department~~ EMPLOYER HAVING FIRE DEPARTMENT OLD HIRE MEMBERS, a pension fund to be known as the "~~firemen's~~ FIREFIGHTERS' OLD HIRE pension fund". ~~referred to in this part 5 as the "fund".~~

(2) [~~Formerly 31-30-601 (combines 31-30-601 and 31-30-302)~~] There ~~shall be~~ IS created and established in each ~~city in this state having a population of over one hundred thousand and~~ EMPLOYER having a ~~paid police department~~ OLD HIRE MEMBERS, a pension fund for ~~paid policemen, their surviving spouses and dependent children under the age of sixteen years, and their dependent parents,~~ to be known as the "~~policemen's~~ POLICE OFFICERS' OLD HIRE pension fund". ~~referred to in this part 6 as the "fund".~~

**31-30.5-202. Board of trustees - firefighters' old hire pension fund.** (1) THE GENERAL SUPERVISION, MANAGEMENT, AND CONTROL OF THE FIREFIGHTERS' OLD HIRE PENSION FUND SHALL BE VESTED IN A BOARD OF TRUSTEES.

(2) **[Formerly 31-30-402 (1)(a)]** ~~(1)(a)~~ In any municipality HAVING A POPULATION OF LESS THAN ONE HUNDRED THOUSAND, the board shall consist, except as provided in ~~paragraph (b) of this subsection (1) and in section 31-30-403~~ SUBSECTION (6) OF THIS SECTION, of the mayor, the municipal treasurer or finance officer, one other person appointed by the governing body of such municipality, and three ACTIVE OLD HIRE members of the ~~entire membership of all classes of fire departments~~ FIRE DEPARTMENT serving the municipality who are ~~participating by accruing benefits in the fund and who~~ shall be elected by the ACTIVE OLD HIRE members of such fire ~~departments~~ DEPARTMENT. The terms of office on the board shall be: The mayor of the municipality, during ~~his~~ tenure in office; the treasurer or finance officer, during ~~his~~ tenure in office; the appointed citizen, to be designated by the governing body of the municipality at time of appointment; the three OLD HIRE members of the ~~fire departments~~ DEPARTMENT, to be elected for terms of three years, but at the initial election to be conducted to elect OLD HIRE members of the ~~fire departments~~ DEPARTMENT, one OLD HIRE member shall be elected for a three-year term, one OLD HIRE member for a two-year term, and one OLD HIRE member for a one-year term. Thereafter, such OLD HIRE members shall be elected for three-year terms. Said board shall elect from its number a president and secretary. The municipal treasurer or finance officer shall be ex officio treasurer of the board.

(3) (a) **[Formerly 31-30-502 (1)]** ~~(1)~~ ~~The general supervision, management, and control of the fund shall be vested, as provided by this part 5, in a board to be known as the "board of trustees of the firemen's pension fund", referred to in this part 5 as the "board", which~~ IN ANY MUNICIPALITY HAVING A POPULATION OF AT LEAST ONE HUNDRED THOUSAND, THE board shall be composed of the mayor, the manager of safety, the manager of revenue, the chief of the fire department, and the city auditor or such persons performing the duties of the above-named officers, and also two ~~regular~~ ACTIVE OLD HIRE members of the fire department to be selected ~~in the following manner~~ AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3).

~~(a)~~ (b) During the month of July in each year, the chief officer of the fire department shall conduct an election by secret ballot, at which election all active OLD HIRE members of the fire department shall be eligible to vote, for the purpose of determining membership on the board. In the first election so held, two OLD HIRE members shall be elected, the ~~man~~ MEMBER receiving the highest number of votes being elected for a term of two years and the ~~man~~ MEMBER receiving the next highest number of votes being elected for a term of one year. Upon election, such ~~men~~ MEMBERS shall be certified as members of the board and shall take office on the August 1 following their election. In subsequent elections, only one OLD HIRE member shall be elected for a term of two years, and the ~~man~~ MEMBER receiving the highest number of votes in each subsequent election shall be certified as a member of the board and shall take office on the August 1 following ~~his~~ THE MEMBER'S election. In case any OLD HIRE member so elected to the board becomes unable or ineligible to serve on the board by reason of death, disability, or retirement or for any other cause, a special board election shall be held to fill the vacancy so created for the remainder of the unexpired term.

~~(b)~~ (c) The board shall select from their number a president and a secretary, and the manager of revenue, or the person performing the duties thereof, shall be ex officio treasurer of said board and custodian of all funds coming into its hands. ~~The board has power to compel witnesses to attend and testify before it upon all matters~~

~~connected with the provisions of this part 5 in the same manner as is or may be provided by law. The president of the board or any member thereof may administer oaths to such witnesses:~~

(4) ~~[Formerly 31-30-402 (2) (a)] (2)(a)~~ In fire protection districts, except as provided in ~~paragraph (b) of this subsection (2)~~ SUBSECTION (6) OF THIS SECTION, the board shall consist of the board of directors of the fire protection district, the treasurer of the board of the fire protection district to be treasurer of the fund, and two ACTIVE OLD HIRE members of the fire department. The trustees shall serve terms of office on the board as follows: The president for the term of office, the treasurer for tenure in office, and two ~~firefighters~~ ACTIVE OLD HIRE MEMBERS for two-year terms of office. Initial election of the OLD HIRE members of the fire department shall be conducted to elect one OLD HIRE member for two years and one OLD HIRE member for one year. ~~The treasurer of the fund shall be required to supply bond in an amount designated by the board of trustees of the fund and paid for by the fund.~~

(5) ~~[Formerly 31-30-402 (2.5)] (2.5)~~ In county improvement districts, the board shall consist of one member of the governing board of the county in which the district is located, the county treasurer or finance officer, three residents of the county obligated to pay real or personal property taxes, and two ACTIVE OLD HIRE members of the fire department. The trustees shall serve terms of office on the board as follows: Members of the governing board, during their tenure in office; the county treasurer, during ~~his~~ THE TREASURER'S tenure in office; and the two OLD HIRE members of the fire department for two-year terms of office. ~~The treasurer of the fund shall be required to supply bond in an amount designated by the board of trustees of the fund and paid for by the fund.~~

(6) ~~[Formerly 31-30-402 (1) (b)] (1)(b)~~ Notwithstanding the provisions of ~~paragraph (a) of this subsection (1)~~ SUBSECTIONS (2), (3), AND (4) OF THIS SECTION, any municipality OR FIRE PROTECTION DISTRICT, with the concurrence of a majority of the ACTIVE AND RETIRED OLD HIRE members voting thereon, ~~accruing benefits in the fund and a majority of the retired members voting thereon who are receiving pension benefits from the fund~~ may by ordinance OR RESOLUTION create the board to administer the fund if the number of employer representatives on such board equals the number of member representatives on such board; except that, if fewer than two OLD HIRE members are available or willing to serve on such board, the number of employer representatives may exceed the number of member representatives.

(7) ~~[Formerly 31-30-402 (3)] (3)~~ In case of any consolidation or merger of any municipality, fire protection district, or county improvement district with one or more municipalities, fire protection districts, or county improvement districts, the former trustees of the various firefighters' pension funds of such consolidated or merged political subdivisions shall, with due regard to equal representation, elect seven persons from their number to serve as trustees of the OLD HIRE firefighters' pension fund of said merged or consolidated fund, not more than three of whom shall be ~~firefighters~~ OLD HIRE MEMBERS, and the former trustees not so elected to serve shall cease to hold office. The trustees of said consolidated fund shall elect from their number a president, secretary, and treasurer. ~~The treasurer of the fund of the consolidated district shall be required to supply bond in an amount designated by the board and paid for by the fund.~~

(8) **[Formerly 31-30-411 (combines 31-30-411 and 31-30-514)]** The treasurer of the board, ~~and the~~ IN ADDITION TO ANY custodian appointed by the board pursuant to ~~section 31-30-403 (3) (b)~~ SECTION 31-30.5-204 (4), shall be the ~~custodians~~ CUSTODIAN of the fund and shall secure and safely keep THE SAME, SUBJECT TO THE CONTROL AND DIRECTION OF THE BOARD, AND SHALL KEEP books and accounts concerning said fund in such manner as may be prescribed by the board. The books and accounts shall always be subject to the inspection of the board or any member thereof or any other interested person. ~~Said~~ THE treasurer, ~~or custodian,~~ upon expiration of ~~his~~ THE TREASURER'S term of office, ~~or appointment,~~ shall surrender and deliver to ~~his~~ THE TREASURER'S successor all bonds, securities, and unexpended moneys or other property ~~which has come~~ THAT CAME into ~~his~~ THE TREASURER'S hands as treasurer ~~or custodian~~ of said fund. THE TREASURER SHALL BE REQUIRED TO SUPPLY BOND IN AN AMOUNT DESIGNATED BY THE BOARD AND PAID FOR BY THE FUND.

**31-30.5-203. Board of trustees - police officers' old hire pension fund.**

(1) THE GENERAL SUPERVISION, MANAGEMENT, AND CONTROL OF THE POLICE OFFICERS' OLD HIRE PENSION FUND SHALL BE VESTED IN A BOARD OF TRUSTEES.

(2) **[Formerly 31-30-304 (combines 31-30-304 and exceptions in 31-30-305 (2) and (4))]** IN ANY MUNICIPALITY HAVING A POPULATION OF LESS THAN ONE HUNDRED THOUSAND, UNLESS IT IS A HOME RULE CITY OR TOWN THAT PROVIDES FOR THE COMPOSITION OF THE BOARD BY CHARTER OR ORDINANCE, the board ~~of trustees of said policemen's pension fund~~ shall consist ~~except as provided in section 31-30-305,~~ of the mayor, the municipal treasurer, the clerk, and one ACTIVE OLD HIRE member of the police department who shall be elected by ~~that~~ THE ACTIVE OLD HIRE MEMBERS OF THE department; except that, if there are no ACTIVE OLD HIRE members ~~of the police department~~ available or willing to serve on such board, such board shall consist of the mayor, the municipal treasurer, and the clerk. Said board shall ~~elect~~ SELECT from ~~its members~~ THEIR NUMBER a president and a secretary. The municipal treasurer shall be ex officio treasurer of said board and ~~administer the~~ CUSTODIAN OF ALL funds ~~provided for in this part 3~~ COMING INTO THE TREASURER'S HANDS. ~~Said board shall serve without salary.~~

(3) **[Formerly 31-30-305 (1) (combines 31-30-305 (1) and 31-30-602)]** ~~(†)~~ In ~~cities~~ ANY MUNICIPALITY having a population of at least one hundred thousand, the board ~~of trustees of the policemen's pension fund~~ shall consist of such persons or officials as may be designated by the charter and ordinances thereof. ~~Said board so designated shall have such powers as may be provided for, and said fund shall be controlled, managed, administered, and applied in accordance with such terms and conditions as may be provided by the charter and ordinances of such cities.~~

(4) **[Formerly 31-30-612 (combines 31-30-311 and 31-30-612)]** The treasurer of the board, IN ADDITION TO ANY CUSTODIAN APPOINTED BY THE BOARD PURSUANT TO SECTION 31-30.5-204 (4), shall be the custodian of the fund, shall secure and safely keep the same, subject to the control and direction of the board, and shall keep ~~his~~ books and accounts concerning said fund in such manner as may be prescribed by the board. The books and accounts shall always be subject to the inspection of the board, any member thereof, or any other interested person. Said treasurer, upon expiration of ~~his~~ THE TREASURER'S term of office, shall surrender and deliver to ~~his~~ THE TREASURER'S successor all bonds, securities, and unexpended moneys or other property ~~which come~~ THAT CAME into ~~his~~ THE TREASURER'S hands as treasurer of

~~said~~ THE FUND. THE TREASURER SHALL BE REQUIRED TO SUPPLY BOND IN AN AMOUNT DESIGNATED BY THE BOARD AND PAID FOR BY THE FUND.

**31-30.5-204. Powers and duties of the board.** (1) THE BOARD SHALL:

(a) [Formerly 31-30-403 (3)(a) (combines 31-30-403 (3) (a), 31-30-305 (3), 31-30-505, and 31-30-605)] ~~(3) (a) Such boards shall make~~ PROMULGATE all necessary rules, ~~and regulations~~; not inconsistent with the provisions of this ~~part 4~~ ARTICLE, for managing and discharging ~~their~~ ITS duties and for ~~their~~ ITS own government and procedure in so doing and for the preservation and protection of the fund.

(b) ~~Such boards shall~~ Hear and decide all applications for relief, pensions, annuities, retirement, or other benefits under the provisions of this ~~part 4 in~~ accordance with the provisions of section ~~24-4-105, C.R.S.~~ ARTICLE. Action on such applications shall be final and conclusive; except that, when, in the opinion of the board, justice demands that said action should be reconsidered, the same may be reversed by said board.

(c) KEEP AND PRESERVE a record of ~~such action~~ ACTIONS TAKEN BY THE BOARD and of all other matters ~~coming~~ properly before said board. ~~shall be kept and preserved.~~

(d) [Formerly 31-30-615 (Combines 31-30-615, 31-30-315, 31-30-413, and 31-30-517)] ~~The board shall~~ Make a AN ANNUAL report to the governing body of ~~said city~~ THE EMPLOYER of the condition of ~~said pension~~ THE fund ~~on the last meeting night in August in~~ OF each year.

(2) [Formerly 31-30-502 (1) (b)] ~~(1) (b) The board shall select from their number a president and a secretary, and the manager of revenue, or the person performing the duties thereof, shall be ex officio treasurer of said board and custodian of all funds coming into its hands. The board is empowered to take all necessary steps and pursue all necessary remedies for the preservation of said fund and to carry out all the purposes of this part 5. A record shall be kept of all the meetings of the board. The board has power to compel witnesses to attend and testify before it upon all matters connected with the provisions of this part 5 ARTICLE in the same manner as is or may be provided by law. The president of said board or any member thereof may administer oaths to such witnesses.~~

(3) [Formerly 31-30-312 (1)] ~~(1) The board of trustees of the policemen's pension fund in each municipality entitled to a pension fund under the provisions of this part 3 has THE power to draw on such pension THE fund from the treasurer of the policemen's pension fund and may invest the same or any part thereof in the name of the board of trustees of the policemen's pension fund in interest-bearing bonds of the United States, state of Colorado, or any city, county, or school district of the state of Colorado or may deposit the same or any part thereof in the name of the board of trustees of the policemen's pension fund in any state or national bank or any state or federally chartered savings and loan association in Colorado. All such securities shall be deposited with the treasurer of said municipality as ex officio treasurer of said board and shall be subject to the order of said board. FOR THE PAYMENT OF EXPENSES ATTRIBUTABLE TO THE ADMINISTRATION OF THE FUND, THE PAYMENT OF BENEFITS,~~

AND FOR THE PURPOSE OF INVESTING ALL OR ANY PART OF THE FUND AS PERMITTED BY PART 5 OF THIS ARTICLE.

(4) ~~[Formerly 31-30-312 (2)] (2) For the purpose of making such deposits, The board of trustees may appoint, by written resolution~~ DESIGNATE one or more persons ~~to act~~ FINANCIAL INSTITUTIONS as ~~custodians~~ CUSTODIAN of the ~~moneys of the policemen's pension fund~~. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires. ALL MONEYS PAID OR TRANSMITTED TO THE CUSTODIAN SHALL BE CREDITED TO APPROPRIATE ACCOUNTS IN THE FUND AND THE CUSTODIAN SHALL MAINTAIN A CURRENT INVENTORY OF ALL INVESTMENTS OF THE FUND.

(5) ~~[Formerly 31-30-305 (4)] (4) In home rule cities or towns of less than one hundred thousand, when the board of trustees of the policemen's pension fund and the control, management, administration, and application of said fund are provided for by charter and ordinances, the same may be controlled, managed, administered, and applied in accordance with such charter and ordinance provisions.~~ IN MUNICIPALITIES THAT PRESCRIBE THE COMPOSITION OF THE BOARD FOR THE POLICE OFFICERS' OLD HIRE PENSION FUND BY ORDINANCE OR CHARTER, THE BOARD SHALL HAVE SUCH ADDITIONAL POWERS AND DUTIES AS MAY BE PROVIDED BY THE CHARTER AND ORDINANCES OF SUCH MUNICIPALITIES.

**31-30.5-205. [Formerly 31-30-414 (combines 31-30-414, 31-30-316, 31-30-519, and 31-30-618)] Attorneys to advise.** It is the duty of the attorneys for ~~municipalities, fire protection districts, and county improvement districts~~ THE EMPLOYER to advise the boards on all matters pertaining to their duties and management of ~~said funds~~ THE FUND when required to do so. Such attorneys shall represent and defend ~~said~~ THE boards as their attorneys in all suits or actions at law or in equity that may be brought against them and bring all suits and actions in their behalf that may be required or determined upon by said boards. In the event of a conflict between a board and ~~a municipality, fire protection district, or county improvement district,~~ AN EMPLOYER the board may obtain legal counsel to represent the board in any such action at the expense of the board.

**31-30.5-206. [Formerly 31-30-410 (1) (combines 31-30-410 (1), 31-30-310, 31-30-515, and 31-30-613)] Warrants drawn.** (†) It is the duty of such officers of the municipality, fire protection district, or county improvement district as are designated by law to draw warrants on the treasurer of said municipality, fire protection district, or county improvement district on orders by the board, to draw warrants thereon, payable to the treasurer of said board for all funds belonging to the fund.

**31-30.5-207. [Formerly 31-30-410 (2) (combines 31-30-410 (1), 31-30-310, 31-30-516, and 31-30-614)] Method of payment.** (‡) All moneys ordered to be paid from the fund to any person shall be paid by the treasurer ~~of the board~~ only upon ~~warrants~~ THE WARRANT signed by the president of said board and countersigned by the secretary thereof. No warrant shall be drawn except by order of the board after having been duly entered on the records of the proceedings of the board.

**31-30.5-208. [Formerly 31-30-616 (combines 31-30-616, 31-30-313, 31-30-412 (1), and 31-30-518)] 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~~ THAT are the result of a judgment taken for arrearages for child support or for child support debt, no portion of the fund, before or after its 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 employer or the beneficiary of the fund. Said fund shall be held and distributed for the purposes of this ~~part 6~~ ARTICLE and for no other purpose whatsoever.

**31-30.5-209. Idle Funds.** (1) ~~[Formerly 31-30-313 (2) (a)]~~ ~~(2)(a)~~ If the governing body of a municipality, by resolution, finds that no person named in this ~~part 3~~ ARTICLE is, and no such person can become, eligible for payment of a benefit from the municipality's ~~police officers'~~ POLICE OFFICERS' OLD HIRE pension fund established pursuant to ~~this part 3~~ SECTION 31-30.5-201 (2), it may authorize use of the money in the fund to make contributions to the fire and police members' benefit fund pursuant to ~~section 31-30-1013 (2)~~ SECTION 31-31-402 (2), to make contributions to a police benefit fund established pursuant to ~~section 31-30-1003 (2)~~ ~~(b) (H)~~ SECTION 31-31-601 (1)(b), or to make contributions under the federal social security laws if the municipality's police officers are covered by the social security laws. To the extent that money in the fund exceeds three times the present yearly employer contribution to any of the preceding benefit funds on behalf of the municipality's current police officers, such excess may be used for any law-enforcement-related purpose. If the municipality does not employ any police officer, the governing body may authorize use of the money in the fund for any law-enforcement-related purpose. In addition, any money in the fund ~~which~~ THAT is attributable to contributions by the municipality and to interest on such contributions may be used for any police-related purpose and, if no such police-related need exists, then for any purpose as decided by the governing body of the municipality. For the purposes of this ~~paragraph (a)~~ SUBSECTION (1), contracting with the county or county sheriff for law enforcement service shall not be considered employment of a police officer.

(2) ~~[Formerly 31-30-412 (2) (a)]~~ ~~(2)(a)~~ If the governing body of a municipality, fire protection district, or county improvement district, by resolution, finds that no person named in this ~~part 4~~ ARTICLE is, and no such person can become, eligible for payment of a benefit from the EMPLOYER'S FIREFIGHTERS' OLD HIRE PENSION fund, it may authorize use of the money in the fund to make contributions to the fire and police members' benefit fund pursuant to ~~section 31-30-1013 (2)~~ SECTION 31-31-402 (2) or to make contributions under the federal social security laws if the ~~municipality, district and their firemen~~ EMPLOYER'S FIREFIGHTERS are covered by the social security laws. In addition, any money in the fund ~~which~~ THAT is attributable to contributions by the municipality or district and to interest on such contributions may be used for any fire-related purpose and, if no such fire-related need exists, for any purpose as decided by the governing body of the municipality or district.

(3) (a) ~~[Formerly 31-30-412 (2) (b) (combines 31-30-412 (2) (b) and 31-30-313 (2) (b))]~~ ~~(b)~~ At least sixty days before adoption of ~~the~~ A resolution PERMITTED BY SUBSECTION (1) OR (2) OF THIS SECTION, the governing body of the

municipality or district shall publish one notice in a newspaper having general circulation within the municipality or district and shall provide a copy of such published notice to the board of directors of the state fire and police pension association established pursuant to ~~part 10 of this article~~ SECTION 31-31-201 (1). The notice shall state the intent of the governing body to use the money in the fund for the purposes permitted in this ~~subsection (2)~~ SECTION. The notice shall state that persons who believe they are or may be entitled to benefit payments from the fund shall have fifty days from the date of the notice in which to file an objection, in writing, with the governing body regarding its proposed use of the fund. If any such written objection is received, the governing body shall hold a public hearing before adoption of any resolution under this ~~subsection (2)~~ SECTION with prior published notice of the time and place of the hearing as well as written notice of such hearing mailed, by certified mail, to each person filing a written objection.

(b) [~~Formerly 31-30-412 (2) (c) (combines 31-30-412 (2) (c) and 31-30-313 (2) (c))~~] ~~(e)~~ If, within one year after adoption of a resolution pursuant to this ~~subsection (2)~~ SECTION, any person establishes a claim to a benefit from the fund, the municipality or district shall repay to the fund any money expended from such fund pursuant to this ~~subsection (2)~~ SECTION, and no such additional expenditures shall be made from the fund.

**31-30.5-210. Plan amendment.** (1) [~~Formerly 31-30-805 (10) (a)~~] ~~(10)(a)~~ No modification of any provision of a AN OLD HIRE pension benefit plan of a fund established pursuant to this article may be made after December 1, 1978, except as may be authorized pursuant to ~~part 10 of this article~~. Every employer providing a state-assisted pension plan shall contribute in 1982 at least at the same rate of contribution as the percentage of salary that was contributed in 1981. In no event shall any employee contribution decrease below his rate of contribution for the calendar year 1981. BY SUBSECTION (2) OF THIS SECTION.

(2) [~~Formerly 31-30-1005 (6)~~] ~~(6)~~ Except with respect to exempt plans, Upon the request of an employer and with the approval of sixty-five percent of the active OLD HIRE members, the board OF DIRECTORS OF THE FIRE AND POLICE PENSION ASSOCIATION ESTABLISHED PURSUANT TO SECTION 31-31-201 (1), shall permit the modification of any provision of a ~~nonexempt~~ AN OLD HIRE pension plan of a fund established pursuant to ~~part 3, 4, 5, or 6 of this article~~, if the board determines that such modification will maintain or enhance the actuarial soundness, as defined in ~~section 31-30-1002 (1)~~ SECTION 31-31-102 (1), of such fund. This subsection ~~(6)~~ (2) shall not be construed to authorize the board to allow a modification of any such ~~nonexempt~~ OLD HIRE plan so as to change the nature of the plan from a defined benefit plan to a money purchase plan or to adversely affect the pension benefits of retired OLD HIRE members.

**31-30.5-211. [Formerly 31-30-1003 (3) (a)] Affiliation with the fire and police pension association.** ~~(3)(a)~~ Any employer may elect affiliation with the FIRE AND POLICE PENSION association ESTABLISHED BY SECTION 31-31-201 (1), relating to a local AN OLD HIRE PENSION plan which it has established pursuant to ~~part 3, 4, 5, or 6 of this article~~. by filing with the board a resolution adopted no less than nine months prior to the effective date of affiliation, unless a shorter waiting period is approved by the board. The effective date of affiliation shall be January 1 of the year following the waiting period. THE PROCEDURES FOR AFFILIATION AND OTHER

PROVISIONS GOVERNING THE ADMINISTRATION OF AN AFFILIATED PLAN ARE SET FORTH IN SECTION 31-31-701.

**31-30.5-212. [Formerly 31-30-324.5 (combines 31-30-324.5, 31-30-416.5, 31-30-521.5, and 31-30-620.5)] Qualification requirements - internal revenue code.** (1) As used in this section, "internal revenue code" means the federal "Internal Revenue Code of 1954", as in effect on September 1, 1974, if permitted with respect to governmental plans, or, to the extent not inconsistent with the federal "Internal Revenue Code of 1954", as in effect on September 1, 1974, "internal revenue code" means the federal "Internal Revenue Code of 1986", as amended.

(2) The ~~police men's pension fund~~ OLD HIRE PENSION FUNDS established by this ~~part~~ <sup>3</sup> ARTICLE shall be held in trust for the benefit of OLD HIRE members and other persons entitled to benefits. No part of the corpus or income of the pension fund shall be used for or diverted to purposes other than for the exclusive benefit of OLD HIRE members or other persons entitled to benefits from the pension fund and for expenses incident to operation of the pension fund. No person shall have any interest in or right to any part of the corpus or earnings of the pension trust except as expressly provided.

(3) To the extent of available funds in the pension fund, in the event of a complete discontinuance of contributions, other than to a fund ~~which~~ THAT is fully funded on an actuarially sound basis, or upon termination of the pension fund, ~~a~~ AN OLD HIRE member will be fully vested in the benefits such member has accrued at the date of the discontinuance or termination. In addition, upon attaining the eligibility requirements for a benefit, ~~a~~ AN OLD HIRE member will be fully vested in the benefits such member has accrued.

(4) Benefits payable from the pension fund to OLD HIRE members or any other persons entitled to benefits will not be increased due to forfeitures from other members, but these forfeitures will be used to reduce the actuarial funding requirements of the pension fund.

(5) Notwithstanding any provision in this ~~part~~ <sup>3</sup> ARTICLE to the contrary, ~~a~~ AN OLD HIRE member's pension shall begin by April 1 of the calendar year following the calendar year in which the member attains seventy and one-half years of age or retires, whichever is later.

(6) The maximum annual pension payable to ~~a~~ AN OLD HIRE member by the pension fund shall be subject to the limitations set forth in section 415 of the internal revenue code and any regulations issued thereunder.

(7) The compensation taken into account for any purpose under the pension fund shall not exceed the applicable amount under section 401 (a) (17) of the internal revenue code and any regulations issued thereunder.

(8) Any distributee who is entitled to an eligible rollover distribution, as defined in section 402 (c) (4) of the internal revenue code, from the pension fund on or after January 1, 1993, may elect to have the portion of such distribution ~~which~~ THAT would otherwise be included in the gross income of the distributee for federal income tax purposes transferred directly to an eligible retirement plan, as defined in section 402

(a) (5) (E) (iv) of the internal revenue code, designated by the distributee.

**31-30.5-213. [Formerly 31-30-415 (9)] Dissolution of fire departments.** ~~(9)~~ In the event of dissolution, for any reason, of fire departments whereby the services of firefighters or fire departments are discontinued, the firefighters or their surviving spouses, dependent parents, and children receiving benefits at the time of such dissolution shall continue to receive such benefits in accordance with the provisions of this ~~part 4~~ ARTICLE. 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 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.

### PART 3 FUNDING - STATE ASSISTED PLANS

**31-30.5-301. [Formerly 31-30-802] Legislative declaration.** The general assembly finds and declares that the establishment of statewide actuarial standards regarding funded and unfunded liabilities of state-assisted ~~police officers' and firefighters' pension funds established pursuant to parts 3 to 6~~ POLICE OFFICERS' and firefighters' pension funds established pursuant to ~~parts 3 to 6~~ ~~of this article is a matter of statewide concern affected with a public interest, and the provisions of this part 8~~ PART 3 are enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state. The general assembly further declares that state moneys provided to municipalities, fire protection districts, and county improvement districts do not constitute an obligation of the state to participate in the costs of pension plan benefits but are provided in recognition that said local governments are currently burdened with financial obligations relating to pensions in excess of their present financial capacities. It is the intent of the general assembly in providing state moneys to assist said local governments that state participation decrease annually, terminating at the earliest possible date.

**31-30.5-302. [Formerly 31-30-803] Definitions.** As used in this ~~part 8~~ PART 3, unless the context otherwise requires:

(1) "Commission" means the ~~police officers' and firefighters' pension reform commission established pursuant to section 31-30-901~~ POLICE OFFICERS' AND FIREFIGHTERS' pension reform commission established pursuant to ~~section 31-30-901~~ SECTION 31-31-1001.

(2) "Employee" means any OLD HIRE firefighter, except any volunteer firefighter, or OLD HIRE police officer employed by an employer who is eligible for the benefits provided pursuant to ~~part 3, 4, 5, or 6~~ of this article.

(3) "Employer" means any municipality, fire protection district, or county improvement district employing one or more employees.

(4) "Governing body" means the governing body of a municipality, fire protection

district, or county improvement district.

(5) "State-assisted" means receiving state moneys relating to accrued unfunded liability pursuant to ~~section 31-30-1014 (4)~~ SECTION 31-30.5-307.

(6) "Volunteer firefighter" has the same meaning as provided in section 31-30-1102 (9).

**31-30.5-303. [Formerly 31-30-804] State assistance - limitation.** (1) On and after July 1, 1981, state assistance relating to accrued unfunded liabilities to each ~~police officers' and firefighters'~~ POLICE OFFICERS' AND FIREFIGHTERS' pension plan in this state shall be expressly contingent upon the maintenance by the governing body providing such plan of the level of annual contributions required pursuant to this ~~part 8~~ PART 3.

(2) If the board of directors of the fire and police pension association determines that a governing body is failing to maintain the level of contributions to a pension plan required pursuant to this ~~part 8~~ PART 3, the board shall suspend the distribution of state moneys to such pension plan.

**31-30.5-304. [Formerly 31-30-805] Limitation on existing funds - procedures.** (1) On and after January 1, 1982, every state-assisted ~~police officers' and firefighters'~~ OLD HIRE POLICE OFFICERS' or firefighters' pension plan created pursuant to ~~part 3, 4, 5, or 6~~ of this article shall be financed in accordance with minimum funding standards prescribed in this ~~part 8~~ PART 3. Contributions made pursuant to this section shall include municipal, special district, and county improvement district contributions, the established employee contribution, and any state contribution.

(2) (a) Except as provided in ~~subsections (3) and (3.5)~~ SUBSECTIONS (4) AND (5) of this section, annual contributions to state-assisted ~~police officers' and firefighters'~~ OLD HIRE POLICE OFFICERS' and firefighters' pension funds shall be made, beginning January 1, 1982, at an annual rate ~~which~~ THAT 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.

(b) In each year until any state-assisted pension plan created pursuant to ~~part 3, 4, 5, or 6~~ of this article is funded on an actuarial reserve basis as required by this ~~part 8~~ PART 3 and has no accrued unfunded liability attributable to active or retired members, the total of such annual contributions shall not be less than the rate of contribution as a percentage of payroll made in the year 1977.

~~(2.5)~~ (3) The general assembly finds and determines that it has contributed substantial sums to the program established by this ~~part 8~~ PART 3 and that the state has a responsibility to evaluate the advisability of its contribution in light of its own fiscal situation.

~~(2.7)~~ (3.5) 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 firefighters' 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~~ 31-31-301, and from such amount the board shall distribute to each state-assisted policemen's or firefighters' 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)~~ (3.5) shall not exceed twenty-five million five hundred thousand dollars.

~~(3)~~ (4) A governing body providing a state-assisted OLD HIRE pension plan ~~which~~ THAT determines that the minimum annual rate of municipal, fire protection district, or county improvement district contributions provided in subsection (2) of this section would place an undue initial 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 ~~which~~ THAT has adopted such resolution may make annual contributions in accordance with the following schedules:

(a) For municipalities, fire protection districts, and county improvement districts having a population of less than five hundred thousand, as determined by the 1970 federal census, contributions for each calendar year, commencing in 1982, shall be at a rate equal to or greater than the percentage of the sum of the current service cost attributable to active members plus the actuarially determined amount required to amortize the unfunded accrued liabilities of such state-assisted fund over a period of not more than thirty-seven years, established as follows:

<u>Calendar year</u>	<u>Percentage</u>	<u>Thirty-seven-year</u> <u>amortization</u> <u>period beginning</u>
		<u>January 1</u>
1982	65	1982
1983	70	1983
1984	75	1984
1985	80	1985
1986	85	1986
1987	90	1987
1988	95	1988
1989		
and thereafter	100	1989

(b) For municipalities, fire protection districts, and county improvement districts having a population of five hundred thousand or more, as determined by the 1970 federal census, contributions for each calendar year beginning 1982 shall be at a rate equal to or greater than the percentage of the sum of the current service cost attributable to active members and the actuarially determined amount required to amortize the unfunded accrued liabilities of such state-assisted fund over a period of not more than thirty-seven years, established as follows:

Thirty-seven-year

<u>Calendar</u> <u>year</u>	<u>Percentage</u>	<u>amortization</u> <u>period beginning</u>
		<u>January 1</u>
1982	50	1982
1983	60	1983
1984	70	1984
1985	80	1985
1986	90	1986
1987		
and thereafter	100	1987

(c) Any provision of this ~~subsection (3)~~ SUBSECTION (4) to the contrary notwithstanding, in each year until any state-assisted OLD HIRE pension plan established pursuant to ~~part 3, 4, 5, or 6~~ of this article is funded on an actuarial reserve basis as required by this ~~part 8~~ PART 3 and has no accrued unfunded liability attributable to active or retired members, the total of such annual contributions shall be not less than the greater of the pension benefits paid in such year or the rate of contribution as a percentage of payroll made in the year 1977.

~~(3.5)~~ (5) (a) Except as provided in paragraph (c) of this ~~subsection (3.5)~~ SUBSECTION (5), beginning July 1, 1995, annual employer contributions to state-assisted ~~police officers'~~ OLD HIRE POLICE OFFICERS' and firefighters' 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~~ SECTION 31-30.5-306, 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~~ SECTION 31-30.5-306 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)~~ SUBSECTION (7) 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 ~~police officers'~~ POLICE OFFICERS' and firefighters' pension funds shall continue at the rate established by this ~~subsection (3.5)~~ SUBSECTION (5) after the year 2009, if necessary, until all unfunded accrued liability in the employers' state-assisted ~~police officers'~~ OLD HIRE POLICE OFFICERS' and firefighters' 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)~~ SECTION 31-30.5-307 (2).

(c) If in any year the annual state contribution to state-assisted ~~police officers'~~ OLD HIRE POLICE OFFICERS' and firefighters' pension funds is less than the amount contributed under ~~section 31-30-1014(5)~~ SECTION 31-30.5-307 (2) 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)~~ SUBSECTION (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)~~ SECTION 31-30.5-210 (2), as established by supplemental actuarial studies on such funds.

~~(4)~~ (6) All municipalities, fire protection districts, and county improvement districts, including both paid firefighters and volunteer firefighters in their pension plans, shall segregate the pension funds for paid firefighters and volunteer firefighters on an equitable basis for accounting and actuarial purposes, and said segregation shall be considered in all actuarial reports applicable to such funds. In computing the portion of the fund attributable to volunteer firefighters, the benefits of such volunteer firefighters shall not be reduced or otherwise changed.

~~(5)~~ (7) (a) (I) (A) Notwithstanding any other provision of this article, no modification of any provision of a AN OLD HIRE pension benefit plan of a fund established pursuant to this article may be made after December 1, 1978, except as may be authorized pursuant to ~~part 10 of this article~~ SECTION 31-30.5-210(2); but the contribution rate of the members of any state-assisted ~~fund~~ OLD HIRE PENSION PLAN may be increased to a maximum of ten percent of salary and shall be increased to the following minimums, with the rate of contribution of the employer at least equal to the employee rate:

<u>Calendar year</u>	<u>Percentage</u>
1982	6.5
1983	7.0
1984	7.5
1985	
and thereafter	8.0

(B) The provisions of this subparagraph (I) shall not apply to an exempt plan described in ~~section 31-30-1003 (2) (a) (II) or (2) (a) (III)~~ PART 8 OF THIS ARTICLE.

(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 subsections (2) and ~~(3.5)~~ (5) of this section and if the rate of contribution of the employer at least equals the employee rate.

(III) The restriction provided in subparagraph (I) of this paragraph (a) on modification of any provision of a pension benefit plan established pursuant to ~~part 3, 4, 5, or 6 of this article~~ shall apply to any modification which otherwise would be permitted by a change in population.

(b) Except as provided in paragraph (a) of this ~~subsection (5)~~ SUBSECTION (7), in no event shall employee contributions to a state-assisted fund be reduced if greater than the rate established by said paragraph (a).

(c) Nothing in this ~~subsection (5)~~ SUBSECTION (7) shall prevent the implementation of ~~part 10 of this~~ article 31 OF THIS TITLE with regard to employees hired after April 7, 1978, and those employees hired on or prior to said date who are to be covered under the provisions of said ~~part 10~~ ARTICLE 31 in accordance with said ~~part 10~~ ARTICLE 31.

~~(6)~~ (8) Every employee employed as a ~~fireman or policeman~~ FIREFIGHTER OR POLICE OFFICER for the first time after April 7, 1978, shall be covered by the benefit provisions set forth in or authorized by ~~part 10 of this~~ article 31 OF THIS TITLE.

~~(7)~~ (9) Volunteer firefighters and volunteer firefighter pension funds shall be exempt from all provisions of this section except ~~subsection (4)~~ SUBSECTION (6) of this section.

~~(8)~~ (10) Notwithstanding any other provision of this section except ~~subsection (3.5)~~ SUBSECTION (5) of this section, the maximum annual increase in contributions to a state-assisted ~~police men's~~ OLD HIRE POLICE OFFICERS' or firefighters' 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.

~~(9)~~ (11) Notwithstanding any other provision of law to the contrary, an assessment against any ~~officer, member, and~~ employee of any fire or police department to which ~~parts 3, 4, 5, and 6 of this article apply~~ APPLIES may be in an amount not to exceed ten percent of ~~his~~ THE EMPLOYEE'S monthly salary. Said amount shall be deducted and withheld from the monthly pay of each such ~~officer, member, and~~ employee so assessed and placed to the credit of said ~~officer's, member's, and~~ employee's pension fund in the same manner as provided by ~~said parts 3, 4, 5, and 6 of this article~~; except that in no case shall employer contributions be less than employee contributions.

~~(10)(a)~~ (12) No modification of any provision of a pension benefit plan of a fund established pursuant to this article may be made after December 1, 1978, except as may be authorized pursuant to ~~part 10 of this article~~. Every employer providing a state-assisted OLD HIRE pension plan shall contribute in 1982 at least at the same rate of contribution as the percentage of salary that was contributed in 1981. In no event shall any employee contribution decrease below ~~his~~ THE EMPLOYEE'S rate of contribution for the calendar year 1981.

~~(b)~~ The restrictions provided in subparagraph (5) (a) (I) of this section and in paragraph (a) of this subsection (10) on modification of any provision of a pension benefit plan established pursuant to part 3, 4, 5, or 6 of this article shall apply to any modification which otherwise would be permitted by a change in population.

(13) THE BOARD OF ANY STATE-ASSISTED OLD HIRE PENSION PLAN MAY TAKE, BY GIFT, GRANT, DEVISE OR BEQUEST, ANY MONEY, PERSONAL PROPERTY, OR REAL ESTATE, OR INTEREST THEREIN, AS TRUSTEES FOR THE USES AND PURPOSES FOR WHICH THE FUND IS CREATED.

**31-30.5-305. [Formerly 31-30-806] No change in employer obligation.** It is the intention of the general assembly that the minimum funding standards established

by this ~~part 8~~ PART 3 shall not enlarge nor diminish the obligation of municipalities and fire protection districts to their employees for pension benefits provided pursuant to ~~parts 3 to 6~~ of this article.

**31-30.5-306. [Formerly 31-30-1014.5] Actuarial studies.**

(1) (a) Any employer desiring to receive state assistance contributions, pursuant to ~~section 31-30-1014 (4)~~ SECTION 31-30.5-307 (1) shall file an actuarial study of its ~~police and firemen's~~ OLD HIRE POLICE OFFICERS' AND FIREFIGHTERS' pension funds with the association not later than July 1, 1982.

(b) An updated actuarial study shall be filed not later than July 1, 1984, and every two years thereafter.

(2) (a) The association shall designate actuaries or firms of actuaries to supervise, conduct, or review actuarial studies required by this section.

(b) The FIRE AND POLICE PENSION ASSOCIATION'S board OF DIRECTORS shall specify the actuarial assumptions to be used in each such actuarial study.

(3) Costs of all such actuarial studies shall be an expense of the association and paid for as provided in ~~section 31-30-1012 (4)~~ 31-31-302 (3).

(4) In the event any such actuarial study is not timely filed with the association, the board may extend the filing deadline and make the appropriate distribution to the defaulting employer, pursuant to ~~section 31-30-1014 (4)~~ SECTION 31-30.5-307 (1), upon compliance with the requirements of subsection (1) of this section, or the board may retain the moneys for the purposes specified in ~~section 31-30-1012 (4)~~ SECTION 31-31-302 (3).

**31-30.5-307. [Formerly 31-30-1014 (4), (5), and (7)] State contribution. ~~(4)~~**

~~(a)~~ (1) (a) ~~After the disbursements made pursuant to subsection (2) of this section,~~ Any moneys allocated for distribution ~~remaining in the fund~~ PURSUANT TO SUBSECTION (2) OF THIS SECTION shall be distributed by the FIRE AND POLICE PENSION ASSOCIATION board OF DIRECTORS annually to any fund of a AN OLD HIRE PENSION plan established pursuant to ~~part 3, 4, 5, or 6~~ of this article having an unfunded accrued liability to assist in amortizing such unfunded accrued liability as determined in the January 1, 1994, actuarial studies performed under ~~section 31-30-1014.5~~ SECTION 31-30.5-306. Beginning in 1995 and in each year through 2009, each such fund having an unfunded accrued liability shall be credited 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)~~ SECTION 31-30.5-304 (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)~~ SECTION 31-30.5-304 (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)~~ SECTION 31-30.5-304 (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)~~ SUBSECTION (2) 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)~~ SECTION 31-30.5-210 (2). No money shall be distributed pursuant to this ~~subsection (4)~~ SUBSECTION (1) to an employer having rank escalation for ~~members hired before April 8, 1978~~ OLD HIRE MEMBERS, which is not in the association. For the purposes of this ~~subsection (4)~~ SUBSECTION (1), "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.

(b) (I) Each employer having rank escalation and having ~~members hired prior to April 8, 1978~~ OLD HIRE MEMBERS, who have made the irrevocable election to remain covered under the local plan, as provided in ~~section 31-30-1003 (3) (b)~~ SECTION 31-31-701 (2), shall determine for each such employee the percentage that such employee's years served as of January 1, 1980, bear to the total number of years required for retirement. At retirement, the retirement pension shall be divided into that percentage and the remainder. The portion of the retirement pension equal to that percentage earned as of January 1, 1980, shall be subject to rank escalation as provided under the ~~local~~ OLD HIRE PENSION plan, and the remainder of the retirement pension shall be subject to the same adjustment as that determined by the FIRE AND POLICE PENSION ASSOCIATION board OF DIRECTORS pursuant to ~~section 31-30-1010~~ SECTION 31-31-307.

(II) An employer may elect to continue full rank escalation benefits for that portion of the retirement pension subject to the adjustment as provided in subparagraph (I) of this paragraph (b), but no state contribution shall be used to fund such continuation of rank escalation or any unfunded liabilities incurred as a result of such continuation of rank escalation.

(c) State contributions pursuant to this ~~subsection (4)~~ SUBSECTION (1) shall cease when the unfunded liabilities in all funds receiving such contributions are eliminated, but no later than December 31, 2009.

(d) Commencing December 1, 1992, the board shall submit a biennial report to the joint budget committee reporting on each employer having an accrued unfunded liability and the amount of such accrued unfunded liability.

~~(5) (2) 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. 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~~ TRANSFER FROM THE PROCEEDS OF THE TAX IMPOSED BY SECTION 10-3-209, C.R.S., TO THE FUND CREATED BY SECTION ~~31-30-301~~ 31-31-301, AN AMOUNT EQUAL TO twenty-six million six hundred THOUSAND dollars minus the amount transferred under section 31-30-1112 (2) (g) (I). Such annual transfer to the fund under this ~~subsection (5)~~ SUBSECTION (2) shall cease when the requirements of paragraph (c) of ~~subsection (4)~~ SUBSECTION (1) of this section have been met, and the final annual transfer may be in an amount less than the amount prescribed by this ~~subsection (5)~~ SUBSECTION (2) as determined from the total amount of unfunded accrued liability of employers described in the biennial report prepared pursuant to paragraph (d) of ~~subsection (4)~~ SUBSECTION (1) 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~~ PART 3 and part 11 of this article 30 OF THIS TITLE.

~~(7)~~ (3) Moneys transferred pursuant to this section shall be included for informational purposes in the general appropriation bill or in supplemental appropriation bills for the purpose of complying with the limitation on state fiscal year spending imposed by section 20 of article X of the state constitution and section 24-77-103, C.R.S.

#### PART 4 FUNDING - NONSTATE ASSISTED PLANS

**31-30.5-401. [Formerly 31-30-406 (combines 31-30-406 and 31-30-407)] Sources of revenue for fund.** (1) ~~Such~~ EXCEPT FOR STATE-ASSISTED OLD HIRE POLICE OFFICERS' AND FIREFIGHTERS' PENSION PLANS AND THOSE AFFILIATED WITH THE FIRE AND POLICE PENSION ASSOCIATION PURSUANT TO SECTION 31-31-701, EACH OLD HIRE pension fund may consist of:

(a) All moneys that may be given to such board or fund by any person for the use and purpose for which such fund is created. Such board may take, by gift, grant, devise, or bequest, any money, personal property, or real estate, or interest therein, as trustees for the uses and purposes for which the fund is created;

(b) All moneys, fees, rewards, or emoluments of every nature and description that may be paid or given to said fund;

(c) All moneys derived from ~~employee assessment~~ EMPLOYER AND MEMBER CONTRIBUTIONS, as provided for in ~~section 31-30-405 (3) and (4) which shall be collected monthly by the officer of the municipality, fire protection district, or county improvement district concerned whose duty it is to issue pay warrants or by any other proper officer.~~ SECTIONS 31-30.5-402 AND 31-30.5-403.

**31-30.5-402. Municipalities under fifty thousand - limit of contributions to old hire police officers' pension plans.** (1) ~~[Formerly 31-30-319] In addition to all other moneys provided for in section 31-30-307,~~ There is granted to municipalities in this state having less than fifty thousand population the power to pay from the general funds of their respective municipalities into the ~~police officers'~~ OLD HIRE POLICE OFFICERS' pension fund of their respective municipalities such sum monthly as ~~conforms to the provisions of part 8~~ of this article SHALL NOT EXCEED FIVE PERCENT OF THE MONTHLY SALARIES OF THE TOTAL ACTIVE OLD HIRE MEMBERS IN THE POLICE DEPARTMENT OF THEIR RESPECTIVE MUNICIPALITIES.

(2) **[Formerly 31-30-320]** In such municipalities as make contributions from general funds into the ~~police~~ ~~men's~~ OLD HIRE POLICE OFFICERS' pension fund of their respective municipalities pursuant to ~~section 31-30-319~~ SUBSECTION (1) OF THIS SECTION, the ACTIVE OLD HIRE members of such police department shall contribute monthly, from their respective monthly salaries, into the municipality's ~~police~~ ~~men's~~ OLD HIRE POLICE OFFICERS' pension fund identical percentages of their respective monthly salaries so that the contribution of the ACTIVE OLD HIRE MEMBERS OF THE police department as a whole matches the contribution of the municipality.

**31-30.5-403. [Formerly 31-30-405] Employers under one hundred thousand - limit of contributions to old hire firefighter pension plans.** ~~(1) Moneys in said firefighters' pension fund shall be for the use and benefit of the members and their surviving spouses, dependent children, and dependent parents in accordance with the provisions of this part 4 and part 5 of this article.~~

~~(2) (1) In addition to the funds provided in subsection (1) of this section, There may be levied and set apart by the governing body of each municipality having a population of less than one hundred thousand, by the board of directors of each fire protection district, or by the board of a county improvement district, a tax for the year 1969 and each year thereafter of not more than one mill on the taxable property in such municipality, fire protection district, or county improvement district, the proceeds thereof to be credited to the OLD HIRE firefighters' pension fund of each such municipality, or fire protection district, OR COUNTY IMPROVEMENT DISTRICT.~~

~~(3) (2) Any municipality, fire protection district, or county improvement district having less than one hundred thousand population and having a paid fire department shall levy an assessment on the ACTIVE OLD HIRE members in an amount not to exceed six percent of their monthly salaries and, as a minimum amount, shall match the moneys derived therefrom by an equal contribution from the municipality, fire protection district, or county improvement district by use of the levy provided for in subsection (2) SUBSECTION (1) of this section, or the proper governing body shall appropriate said sum out of the general revenues of the municipality, fire protection district, or county improvement district.~~

~~(4) (3) Any municipality having less than one hundred thousand population and having a paid and volunteer fire department or any fire protection district or county improvement district having a paid and volunteer fire department shall assess the paid OLD HIRE members of such department in an amount not to exceed six percent of their monthly salaries and, as a minimum amount, shall match the moneys derived therefrom by an equal contribution from the municipality, fire protection district, or county improvement district by use of the levy provided for in subsection (2) SUBSECTION (1) of this section. Said sum shall be segregated by the municipal treasurer, the treasurer of the district board of directors, or the treasurer of the county improvement district, as the case may be, and shall be used for the payment of pensions to the paid OLD HIRE members of said departments and their surviving spouses and orphans, as otherwise provided for in this part 4 ARTICLE, but, so long as there are volunteer members in said department, the present OLD HIRE pension fund, if derived from state allocations, shall continue to be maintained for the benefit of all members of said department, paid and volunteer OLD HIRE MEMBERS AND VOLUNTEERS alike, under such rules and regulations as the board determines to be equitable. and not inconsistent with section 31-30-416.~~

~~(5)~~ (4) A paid firefighter is any firefighter whose main source of income is derived from service on a fire department. All other firefighters who render service to a fire department are volunteer firefighters.

~~(6)~~ (5) If the total moneys allocated to a AN OLD HIRE firefighters' pension fund by a municipality, fire protection district, or county improvement district are, in the opinion of the board of such municipality, fire protection district, or county improvement district, inadequate to sustain a proper fund for retirement or for the other purposes of the fund under this ~~part 4~~ ARTICLE, such board may consolidate its OLD HIRE fund with the OLD HIRE fund of another municipality, fire protection district, or county improvement district, and such consolidated funds shall thereafter be administered as a single fund. Such consolidation of funds may be made under such conditions and in conformity with such terms as are mutually agreed to by the boards of the consolidating single funds, consistent with the provisions of this ~~part 4~~ ARTICLE.

**31-30.5-404. Plans affiliated with the fire and police pension association.** NOTWITHSTANDING ANY PROVISION OF THIS PART 4 TO THE CONTRARY, AN EMPLOYER THAT AFFILIATES ITS OLD HIRE POLICE OFFICERS' OR FIREFIGHTERS' PENSION FUND WITH THE FIRE AND POLICE PENSION ASSOCIATION PURSUANT TO SECTION 31-31-701 AND THAT IS NOT RECEIVING STATE CONTRIBUTIONS UNDER PART 3 OF THIS ARTICLE, SHALL ANNUALLY CONTRIBUTE AN AMOUNT APPROVED BY THE BOARD OF DIRECTORS OF THE ASSOCIATION, UPON THE ADVICE OF ITS ACTUARY, SUFFICIENT TO PAY THE NORMAL COST PLUS AMORTIZE THE UNFUNDED PAST SERVICE LIABILITY ATTRIBUTED TO OLD HIRE MEMBERS, OVER A PERIOD OF FORTY YEARS FROM JANUARY 1, 1982.

#### PART 5 INVESTMENTS - INSURANCE

**31-30.5-501. [Formerly 31-30-701] Old hire pension fund investments.** It is lawful for the board of trustees of the ~~firemen's~~ OLD HIRE FIREFIGHTERS' pension fund and the board of trustees of the ~~police men's~~ OLD HIRE POLICE OFFICERS' pension fund in any municipality OR DISTRICT in this state to invest such respective pension funds, or any part thereof, in the name of the treasurer of such municipality or in the name of a custodian or custodians appointed by the board, as provided for in this section, in interest-bearing obligations of the United States, in interest-bearing bonds of the state of Colorado, or in general obligation bonds of cities, whether organized under general law or article XX of the state constitution, or in any depository enumerated in section 24-75-603, C.R.S., and secured as provided in articles 10.5 and 47 of title 11, C.R.S. The board of trustees, by written resolution, may appoint one or more persons to act as custodians, in addition to the treasurer, to deposit or cause to be deposited all or part of such funds in any state or national bank or any state or federally chartered savings and loan association in Colorado. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires. All such securities and evidences of investment shall be deposited with the treasurer of such municipality.

**31-30.5-502. [Formerly 31-30-702] Insurance - investment by banks and trust companies.** (1) Notwithstanding any restrictions on investments of ~~police men's~~ or ~~firemen's~~ OLD HIRE POLICE OFFICERS' OR FIREFIGHTERS' pension funds contained in any laws of this state, it is lawful for the board of trustees of any ~~police men's~~ or

~~firemen's~~ SUCH pension fund, ~~including any fund created or maintained for any volunteer fire department or fire department aid association~~, with the consent in writing of a majority of the ACTIVE OLD HIRE members of the police department OR fire department ~~or association~~ for the benefit of which the pension fund is maintained, to:

(a) Insure the OLD HIRE members of any such police department OR fire department ~~or association~~ by the purchase of policies of individual, group, or blanket life, endowment, disability, or annuity insurance, or variable annuity insurance in and from companies authorized to do business in Colorado and to expend any portion of such pension fund for the purpose of paying the premiums on any such insurance policies; or

(b) Establish a noninsured trust pension plan with a bank or trust company authorized to exercise trust powers in this state as trustee, invested by the trustee pursuant to the provisions of part 3 of article 1 of title 15, C.R.S.; but the trustee shall at all times hold fixed income obligations having a book value or cost of not less than sixty percent of the total contributions made to the trust less the amounts paid out.

(2) If any OLD HIRE member of such police department, fire department, or association is receiving any pension, benefit, or award made prior to April 9, 1965, by such board of trustees, no such part of said fund shall be expended for purchasing said insurance as will impair the ability of said fund to meet the requirements of such pensions, benefits, and awards. The board of trustees of the OLD HIRE pension fund shall be the beneficiary of any such insurance policies, and the proceeds thereof shall be paid to the board of trustees as an addition to the OLD HIRE pension fund.

**31-30.5-503. [Formerly 31-30-1012 (8)(a)] Alternative investment authority.** ~~(8) (a) Except as provided in paragraph (b) of this subsection (8);~~ NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 5, moneys of ~~exempt alternative programs of employers which~~ OLD HIRE PENSION PLANS THAT are not ~~in the fund~~ AFFILIATED WITH THE FIRE AND POLICE PENSION ASSOCIATION UNDER SECTION 31-31-701, may be invested as provided in ~~subsection (5) of this section~~ 31-30.5-803, but such investments shall meet earning performance standards established by the FIRE AND POLICE PENSION ASSOCIATION board OF DIRECTORS and shall be audited at least biennially.

#### PART 6 RETIREMENT BENEFITS

**31-30.5-601. Police officers' old hire pension plans - municipalities under one hundred thousand in population.** (1) ~~[Formerly 31-30-322]~~ In such municipalities HAVING A POPULATION OF LESS THAN ONE HUNDRED THOUSAND AND making contributions from ~~its~~ general funds into the ~~police officers'~~ POLICE OFFICERS' OLD HIRE pension fund of their respective municipalities, any OLD HIRE member of such police department who has reached the age of fifty-five years and who has served for a period of twenty years in any such department in the state of Colorado or who in the alternative has completed twenty-five years in any such department in the state of Colorado, regardless of age, is entitled to a monthly pension equal to one-half the amount of the average salary ~~he~~ THE MEMBER received as a member of said department for one year before the time of granting ~~his~~ THE MEMBER'S application.

Such payment shall be made regardless of income or earnings ~~which~~ THAT the said retired OLD HIRE member receives from any source.

(2) **[Formerly 31-30-314]** IN MUNICIPALITIES HAVING A POPULATION OF LESS THAN ONE HUNDRED THOUSAND AND NOT MAKING CONTRIBUTIONS INTO THEIR RESPECTIVE POLICE OFFICERS' OLD HIRE PENSION FUND, any OLD HIRE member of ~~any paid~~ THE police department who has reached the age of sixty years and who has served for a period of twenty years in any such department in the state of Colorado is entitled to a monthly pension equal to one-half of the amount of the average salary ~~he~~ THE MEMBER received as a member of said department for one year before the time of granting ~~his~~ THE MEMBER'S application. If, thereafter, such member accepts a salaried position paying a salary of sixty dollars or more per month, the payment of ~~his~~ THE MEMBER'S pension shall be suspended during the period ~~he~~ THE MEMBER holds such position.

**31-30.5-602. [Formerly 31-30-408] Firefighters' old hire pension plans - municipalities and districts under one hundred thousand in population.** ~~Except as provided in section 31-30-511, any members, officers, or employees of any paid fire department of a municipality, fire protection district, or county improvement district who have~~ IN MUNICIPALITIES, FIRE PROTECTION DISTRICTS, AND COUNTY IMPROVEMENT DISTRICTS HAVING A POPULATION OF LESS THAN ONE HUNDRED THOUSAND, ANY OLD HIRE MEMBER WHO HAS reached the age of fifty years and who ~~have~~ HAS served for a period of twenty years of active service in any such department in this state ~~are~~ IS entitled to a monthly pension equal to one-half the amount of ~~their respective~~ THE MEMBER'S monthly salary as of the date of ~~their respective~~ THE MEMBER'S retirement plus, if the governing body of the municipality, the board of directors of the fire protection district, or the board of the county improvement district authorizes such additional benefits, one-half of any increase in salary and longevity or additional pay based on length of service granted during the period of ~~their respective~~ THE MEMBER'S retirement to the rank occupied by ~~them respectively~~ THE MEMBER in said department. Any ~~members, officers, or employees~~ OLD HIRE MEMBER of a paid fire department of a municipality, fire protection district, or county improvement district, who ~~have~~ HAS served prior time in a volunteer fire department in any municipality, fire protection district, or county improvement district in this state, in the event ~~they become paid members;~~ THE MEMBER BECOMES A PAID MEMBER, may be credited service time at their discretion, at the rate of one year of paid service for each four complete years of volunteer time; except that they shall not receive both a pension under part 11 of this article and a service credit under this section.

**31-30.5-603. [Formerly 31-30-610] Police officers' old hire pension plans - municipalities of at least one hundred thousand in population.** ~~Any~~ IN MUNICIPALITIES HAVING A POPULATION OF AT LEAST ONE HUNDRED THOUSAND, ANY OLD HIRE member of the ~~paid~~ police department who has attained the age of sixty years ~~shall be retired from further service in such police department by order of the board. On and after the date of the making of such order, the service of such person in such police department shall cease except in cases of emergencies as provided in section 31-30-617. Such person so retired shall thereafter, during his lifetime, be paid from such fund~~ IS ENTITLED TO a monthly pension equal to one-half the amount of the average salary said ~~person is in receipt of~~ MEMBER RECEIVED as a member of said department for one year before ~~the time of said order of retirement.~~ Any OLD

HIRE member of the police department of such ~~city~~ MUNICIPALITY having served twenty-five years or more in such ~~paid~~ police department, other than ~~such~~ AN OLD HIRE member who has arrived at the age of sixty years and retired, ~~upon application for retirement, shall be relieved and retired from such police department by said board subject to the cases of emergencies provided in section 31-30-617. Thereupon, the board shall order and direct that such person be paid~~ IS ENTITLED TO a monthly pension equal to one-half the amount of the average salary said ~~person is or was in receipt of~~ MEMBER RECEIVED as a member of said department for one year before the time of ~~granting the application~~ RETIREMENT.

**31-30.5-604. [Formerly 31-30-511] Firefighters' old hire pension plans - municipalities of at least one hundred thousand in population.** (1) ~~Any officer, member, or employee of said~~ IN MUNICIPALITIES HAVING A POPULATION OF AT LEAST ONE HUNDRED THOUSAND, ANY OLD HIRE MEMBER OF THE fire department who has served at least twenty-five years of active duty and has attained the age of fifty years shall be retired within thirty days after making application for retirement, except during periods of national emergency, and such person shall be paid a monthly pension equal to one-half the amount of the monthly salary said person received as ~~an officer, member, or employee of said~~ department as of the date of application for retirement. For so long as ~~said officer, member, or employee of said~~ THE OLD HIRE member ~~or employee of said~~ department is in retirement, there shall be added to the amount of ~~said~~ THE MEMBER'S pension one-half of any increase in salary and longevity or additional pay based on length of service granted to the rank formerly occupied by ~~him in said~~ THE MEMBER IN THE department.

(2) ~~Any officer, member, or employee or former officer, member, or employee of said department who, on April 11, 1947, is receiving a pension or annuity from the fund by reason of retirement shall likewise receive a monthly pension or annuity from the fund equal to one-half of the current monthly salary paid to the rank said officer, member, or employee occupied on the date of his retirement plus one-half of all longevity or additional pay which would have accrued to any officer, member, or employee by reason of similar length of service in the fire department under any pertinent longevity or additional pay provision currently in effect in said city or city and county, and plus one-half of any increase in salary and longevity or additional pay based on length of service granted during the period of his retirement to the rank occupied by him in said department. Said pension shall continue to be paid as long as the officer, member, or employee is in retirement.~~

(3) (2) (a) When, for any reason, the rank or grade within a fire department is abolished or ceases to exist and ~~an officer or~~ A RETIRED OLD HIRE member of such department, on or after April 30, 1963, is in receipt of a pension or annuity from the fund by reason of retirement in such classification, grade, or rank, such ~~officer or member shall receive his~~ THE MEMBER'S regular pension payment for the grade or rank occupied at the time of ~~his~~ THE MEMBER'S retirement. ~~as provided in this part 5.~~ In addition, such ~~officer or~~ member of a fire department shall receive additional benefits as follows: The fraction which such ~~officer's or member's~~ regular pension payment for the grade or rank occupied at the time of ~~his~~ THE MEMBER'S retirement ~~as provided in this part 5;~~ bears to the regular pension payment for the next higher rank at such time shall be computed; and such ~~officer or~~ member shall receive one-half of any increase in salary and longevity pay or additional pay based on length of service granted to the next higher rank or grade in such department multiplied by

the fraction as above computed; but if the next higher and next lower ranks or grades of the department receive equal money increases, such ~~officer or~~ member shall receive one-half of any increase without multiplication of the fraction above computed. An ~~officer or~~ OLD HIRE member of such department who, on July 1, 1969, is in receipt of a pension or annuity from the fund, by reason of retirement in a rank or grade which has been abolished or has ceased to exist, shall have ~~his~~ THE MEMBER'S benefits as above described recomputed, and any additional moneys to which ~~he~~ THE MEMBER is entitled shall be paid to ~~him~~ THE MEMBER as if this provision were in effect at the date of ~~his~~ THE MEMBER'S application for retirement.

(b) The provisions of this ~~subsection (3)~~ SUBSECTION (2) shall apply alike to all those who retired under this section and to those who retire under the provisions of ~~section 31-30-508~~ SECTION 31-30.5-705.

#### PART 7 DISABILITY AND SURVIVOR BENEFITS

**31-30.5-701. Coverage.** THE PROVISIONS OF THIS PART 7 GOVERNING THE BENEFITS PAYABLE IN THE EVENT OF THE DEATH OR DISABILITY OF AN ACTIVE OLD HIRE MEMBER SHALL APPLY WITH RESPECT TO ANY SUCH MEMBER WHO DIES OR BECOMES DISABLED PRIOR TO JANUARY 1, 1980. THE PROVISIONS OF THIS PART 7 GOVERNING THE BENEFITS PAYABLE IN THE EVENT OF THE DEATH OF A RETIRED OLD HIRE MEMBER SHALL APPLY REGARDLESS OF THE DATE OF DEATH.

**31-30.5-702. Police officers' old hire pension plans - municipalities under one hundred thousand in population.** (1) [~~Formerly 31-30-308 (1)~~] If any ~~such~~ OLD HIRE member of any ~~paid~~ police department IN A MUNICIPALITY HAVING A POPULATION OF LESS THAN ONE HUNDRED THOUSAND, while in the performance of ~~his~~ THE MEMBER'S duty or by reason of service in such department, becomes physically or mentally disabled and such disability is deemed to be of a temporary nature, said board of trustees shall retire such disabled person and shall authorize the payment to such person, monthly, of an amount from the pension fund equal to the monthly compensation paid any such member as salary at the date of such disability, not to exceed a period of one year. For the purpose of determining the physical or mental disability of any such member, the board of trustees may personally examine the member or may appoint one or more physicians or surgeons to make an examination of the member and report their findings to the board, which report may be taken into consideration in determining whether said member is physically or mentally disabled.

(2) [~~Formerly 31-30-309~~] After any OLD HIRE member of any police department IN A MUNICIPALITY HAVING A POPULATION OF LESS THAN ONE HUNDRED THOUSAND has been retired temporarily by reason of any disability, the board of trustees has the right at any time to cause such retired member to be brought before it and again examined by competent physicians or surgeons and has the right to examine other witnesses for the purpose of discovering whether such disability yet continues and whether such retired member should be continued on the pension roll, not to exceed a period of one year, or reinstated in the service of the police department, except in case of dismissal or resignation. Such retired member is entitled to notice and to be present at the hearing of any such evidence and may be represented by counsel. The retired member shall be permitted to propound any question pertinent or relevant to such matter and shall also have the right to introduce evidence on ~~his~~ THE MEMBER'S

own behalf. All witnesses so produced shall be examined under oath, and any member of such board of trustees is authorized to administer such oath to such witnesses. The decision of such board shall be final.

(3) **[Formerly 31-30-308 (2)]** ~~(2)~~ If any OLD HIRE member or officer of any police department IN A MUNICIPALITY HAVING A POPULATION OF LESS THAN ONE HUNDRED THOUSAND becomes mentally or physically disabled so as to render necessary ~~his~~ THE MEMBER'S retirement from service in such department, said board of trustees shall retire such member from service in such department, and ~~he~~ THE MEMBER shall receive from the pension fund an amount equal to one-half of the monthly salary received by ~~him~~ THE MEMBER at the time ~~he~~ THE MEMBER becomes so disabled. Except as provided in subsection (4) of this section, when any OLD HIRE member of such police department or retired OLD HIRE member dies and leaves a surviving spouse or dependent parent or children under the age of sixteen years, surviving, the board of trustees shall authorize the payment monthly from the pension fund of the sum of thirty dollars to such surviving spouse or dependent parent and six dollars to each such minor child until ~~he~~ THE CHILD reaches the age of sixteen years. No pension shall be paid to the dependent parent of the deceased member who leaves a surviving spouse, and, if the surviving spouse of any deceased member remarries, such pension shall cease.

(4) **[Formerly 31-30-321 (1) (c)]** ~~(1)(c)~~ ~~When any~~ IN THOSE MUNICIPALITIES MAKING CONTRIBUTIONS FROM GENERAL FUNDS INTO THE OLD HIRE POLICE OFFICERS' PENSION PLAN PURSUANT TO SECTION 31-30.5-402, THE BENEFITS PAYABLE IN THE EVENT AN OLD HIRE member of such police department or retired member dies and leaves a dependent surviving spouse or dependent parent or children under the age of sixteen years ~~the board of trustees shall authorize the payment monthly from the pension fund of~~ SHALL BE an amount equal to one-fourth the monthly salary received by ~~said~~ THE member of the department at the time ~~he~~ THE MEMBER died to such surviving spouse or dependent parent and an amount equal to one-eighth of the monthly salary received by ~~said~~ THE member of the department at the time ~~he~~ THE MEMBER died to each minor child until such child reaches the age of sixteen years. No pension shall be paid to the dependent parent of the deceased member who leaves a surviving spouse, and, if the surviving spouse of any deceased member remarries, such pension shall cease.

(5) **[Formerly 31-30-308 (3)]** ~~(3)~~ If at any time there is not sufficient money or other property in said pension fund to pay to each beneficiary the full amount per month to which such beneficiary is entitled, an equal percentage of such monthly payment shall be made to each, until such fund is so replenished as to warrant payment in full to each of such beneficiaries.

**31-30.5-703. Firefighters' old hire pension plans - municipalities and districts under one hundred thousand in population. (1) [Formerly 31-30-407 (1)]**

(a) Any ~~officer~~, OLD HIRE member ~~or employee~~ of a paid fire department IN A MUNICIPALITY, FIRE PROTECTION DISTRICT, OR COUNTY IMPROVEMENT DISTRICT, HAVING LESS THAN ONE HUNDRED THOUSAND IN POPULATION who becomes mentally or physically disabled while on active duty during regular assigned hours of duty from any cause not self-inflicted nor due to the habitual use of intoxicants or drugs to an extent whereby ~~he~~ THE MEMBER is unable to perform ~~his~~ THE MEMBER'S duties shall be retired by the board. Any ~~officer~~, OLD HIRE member ~~or employee~~ of said fire

department who has completed five or more years as a member of said department but who is unable to perform ~~his~~ THE MEMBER'S duties by reason of heart disease or any disease of the lungs or respiratory tract shall submit competent evidence substantiating ~~his~~ THE MEMBER'S claim that ~~he~~ THE MEMBER has contracted said disease while on duty as a result of strain or the inhalation of noxious fumes, poison, or gases and shall be retired by the board.

(b) In cases where a special position or assignment can or may be assigned to such ~~officer~~, OLD HIRE member, ~~or employee~~, ~~he~~ THE MEMBER may be assigned to such special position or assignment. Any such retirement shall be for the period of the disability and no longer and shall be governed by the provisions of paragraphs (c) to (e) of this subsection (1).

(c) Effective July 1, 1969, said ~~officer~~, OLD HIRE member ~~or employee~~ shall be paid a monthly pension equal to one-half the amount of ~~his~~ THE MEMBER'S monthly salary as of the date of ~~his~~ THE MEMBER'S retirement plus, if the governing body of the municipality, the board of directors of the fire protection district, or the board of the county improvement district authorizes such additional benefits, one-half of any increase in salary and longevity or additional pay based on length of service granted during the period of ~~his~~ THE MEMBER'S retirement to the rank occupied by ~~him~~ THE MEMBER in said department. Said pension shall continue to be paid as long as the ~~officer~~, member ~~or employee~~ is in retirement.

(d) All applicants for disability pensions shall be examined by one or more physicians selected by the board and may be examined by one or more physicians selected by the applicant. All expenses of examination by the physician chosen by the board shall be paid by the board out of ~~said~~ THE OLD HIRE PENSION fund.

(e) The board shall establish such rules ~~and regulations~~ as it deems proper for the purpose of reexamination of all ~~persons~~ OLD HIRE MEMBERS who are retired for disability to determine from time to time the fitness of such ~~persons~~ MEMBERS to return to active duty in said department. No such ~~person~~ MEMBER who has reached the age of fifty years, either before or after ~~his~~ THE MEMBER'S retirement, shall be reexamined. No such ~~person~~ MEMBER who has completed twenty years of active duty before the date of such retirement shall be reexamined. No ~~person~~ MEMBER on the retired list shall be examined sooner than one year after date of retirement and not more often than once a year thereafter. In the event it is found by said board that any ~~officer~~, member ~~or employee~~ on the retired list has recovered from the disability ~~which~~ THAT caused ~~his~~ THE MEMBER'S retirement, such ~~person~~ MEMBER, if ~~he~~ THE MEMBER is under fifty years of age and has served less than twenty years of active duty, shall be removed from the retired list and ordered to report to the chief officer of said fire department within thirty days for assignment to active duty. During said period of thirty days, such member may file a written protest in which ~~he~~ THE MEMBER shall state any objection to ~~his~~ THE MEMBER'S removal from the retired list. The decision of said board shall be suspended pending a hearing on said protest, at which hearing such member shall have the right to appear and to be represented by counsel. During the period that any ~~officer~~, member ~~or employee~~ is retired for disability by said board, such ~~officer~~, member, ~~or employee~~, if under the age of fifty years and having served less than twenty years of active duty, shall be carried on a special roll of the fire department and listed as inactive.

(f) (I) Except as provided in subparagraph (II) of this paragraph (f), if an ~~officer,~~ OLD HIRE member ~~or employee~~ of the fire department becomes mentally or physically disabled while not on active duty during regularly assigned hours of duty and from any cause not self-inflicted or due to the habitual use of intoxicants or drugs to an extent whereby ~~he~~ THE MEMBER is unable to perform ~~his~~ THE MEMBER'S regular fire department duties, ~~he~~ THE MEMBER shall be paid by the board, starting twelve months from such disability and for the remaining period of such disability, a monthly benefit equal to five percent of the amount set forth in paragraph (c) of this subsection (1), multiplied by the number of years ~~he~~ THE MEMBER has been in active service with said fire department; but any such benefit under this subsection (1) shall not exceed one-half of ~~his~~ THE MEMBER'S monthly salary as of the date of ~~his~~ THE MEMBER'S disability. The provisions covering examinations, and reexamination as set forth in paragraph (e) of this subsection (1), shall be applicable to all cases arising under this paragraph (f).

(II) Any person who ~~has become an officer,~~ BECAME AN OLD HIRE member ~~or employee~~ of a fire department prior to July 1, 1971, shall be entitled to the benefits set forth in subparagraph (I) of this paragraph (f) as of the date of the onset of such disability and shall not be subject to the twelve-month delay provision.

(2) **[Formerly 31-30-407 (2)]** If any OLD HIRE member ~~officer, or employee~~ of ~~said~~ A fire department IN A MUNICIPALITY, FIRE PROTECTION DISTRICT, OR COUNTY IMPROVEMENT DISTRICT HAVING A POPULATION OF LESS THAN ONE HUNDRED THOUSAND dies from any cause, whether on duty or not or while on the retired list, leaving a surviving spouse or dependent parent, such surviving spouse or dependent parent shall be awarded a monthly annuity equal to one-third of the monthly salary of a first-grade ~~fireman~~ FIREFIGHTER at the time of ~~his~~ THE MEMBER'S death or retirement so long as the surviving spouse or dependent parent remains unmarried. No dissolution of a subsequent marriage shall have the effect of reinstating said surviving spouse on the pension roll or authorizing the granting of a pension. No pension shall be paid to the dependent parent of a deceased OLD HIRE member ~~officer, or employee~~ who leaves a surviving spouse or dependent children.

(3) **[Formerly 31-30-407 (3)]** In addition to the annuity set forth in subsection (2) of this section, the board shall also order the payment to such surviving spouse or the legally appointed guardian of each dependent child of such deceased OLD HIRE member ~~officer, or employee~~ of said fire department of a monthly annuity of thirty dollars for each child, to continue until such child reaches the age of eighteen years. If such surviving spouse dies or there is no surviving spouse, as limited and described in subsection (2) of this section, but there are surviving children under eighteen years of age, the board shall order a monthly payment equal to the full payment to which a ~~fireman's~~ FIREFIGHTER'S surviving spouse is entitled under subsection (2) of this section to be divided equally among the children or a monthly payment of thirty dollars for each child, whichever total amount is greater, to the guardian for said children. In no event shall such surviving children of a deceased or retired ~~fireman~~ FIREFIGHTER receive an amount in excess of one-half of the current salary paid to a ~~fireman~~ FIREFIGHTER, first grade, of said department. No annuity shall be paid to the dependent parent of a deceased member ~~officer, or employee~~ who leaves a child or children under eighteen years of age.

(4) **[Formerly 31-30-409]** When any active or retired ~~fireman~~ OLD HIRE MEMBER

dies, the board shall appropriate from the OLD HIRE PENSION fund the sum of one hundred dollars, as a death benefit, to be paid to the surviving spouse or family of the deceased, but, if there is no surviving spouse or family, said sum shall be paid to such other person as the board of said fund designates.

**31-30.5-704. [Formerly 31-30-608] Police officers' old hire pension plans - municipalities of at least one hundred thousand in population.** (1) If any ~~officer,~~ OLD HIRE member ~~or employee~~ of the police department IN A MUNICIPALITY HAVING A POPULATION OF AT LEAST ONE HUNDRED THOUSAND, while in the performance of ~~his~~ THE MEMBER'S duty, becomes temporarily totally disabled, physically or mentally, for service by reason of service in such department, the board shall order the payment to such disabled ~~officer,~~ member, ~~or employee,~~ monthly during such disability but not to exceed one year, from ~~such~~ THE OLD HIRE pension fund, of a sum equal to the monthly compensation allowed such ~~officer,~~ member ~~or employee~~ as salary at the date of ~~his~~ THE MEMBER'S disability if such ~~officer,~~ member ~~or employee~~ is paid no salary as such ~~officer,~~ member. ~~or employee.~~ If any ~~officer,~~ OLD HIRE member ~~or employee~~ of the police department, while in the performance of ~~his~~ THE MEMBER'S duty, becomes mentally or physically permanently disabled by reason of service in such department so as to render necessary ~~his~~ THE MEMBER'S retirement from service in such department, the board shall retire such disabled member from service in such department. No such retirement on account of disability shall occur unless said member has contracted said disability while in the service of said police department.

(2) Upon ~~such~~ retirement the board shall order the payment to such disabled member ~~of such police department~~ from ~~such~~ THE OLD HIRE pension fund of a sum equal to one-half the monthly compensation allowed to such ~~officer,~~ THE member ~~or employee~~ as salary at the date of ~~his~~ THE MEMBER'S retirement. If any OLD HIRE member of ~~said~~ THE police department IN A MUNICIPALITY HAVING A POPULATION OF AT LEAST ONE HUNDRED THOUSAND, while in the performance of ~~his~~ THE MEMBER'S duty, is killed, dies as a result of an injury received in the line of ~~his~~ duty or of any disease contracted by reason of ~~his~~ THE MEMBER'S occupation, dies from any cause whatever as the result of ~~his~~ THE MEMBER'S services in said department, or dies while in the service or on the retired list from any cause and leaves a surviving spouse or a dependent child under sixteen years surviving or, if unmarried, leaves a dependent parent surviving, the board shall direct the payment from the fund, monthly, to such surviving spouse, while unmarried, of thirty dollars, and for each child, while unmarried, until ~~he~~ THE CHILD reaches the age of sixteen years, six dollars, and to the dependent parent, if such ~~officer,~~ member ~~or employee~~ was unmarried, thirty dollars. The pension to the dependent parent or both shall be paid as follows: If the father is dead, the mother shall receive the entire thirty dollars, and if the mother is dead, the father shall receive the entire thirty dollars, and if both are living, each shall receive fifteen dollars.

**31-30.5-705. Firefighters' old hire pension plans - municipalities of at least one hundred thousand in population.** (1) [Formerly 31-30-508 (1)] Any ~~officer,~~ OLD HIRE member ~~or employee~~ of ~~said~~ A fire department IN A MUNICIPALITY HAVING A POPULATION OF AT LEAST ONE HUNDRED THOUSAND, who becomes mentally or physically disabled while on active duty during regularly assigned hours of duty from any cause not self-inflicted nor due to the habitual use of intoxicants or drugs to an extent whereby ~~he~~ THE MEMBER is unable to perform ~~his~~ THE MEMBER'S duties shall be retired by the board. Any ~~officer,~~ OLD HIRE member ~~or employee~~ of said fire

department who has completed five years or more as a member of ~~said~~ THE department but who is unable to perform ~~his~~ THE MEMBER'S duties by reason of heart disease or any disease of the lungs or respiratory tract shall be presumed, unless said presumption is overcome by competent evidence, to have contracted said disease while on active duty as a result of strain or the inhalation of noxious fumes, poison, or gases and shall be retired by the board.

(2) **[Formerly 31-30-508 (2)]** In cases where a special position or assignment can or may be assigned to such ~~officer, member, or employee, he~~ THE MEMBER may be assigned to such special position or assignment. Any such retirement shall be for the period of the disability, and no longer, and shall be governed by the provisions of subsections (3), (4), and (5) of this section.

(3) **[Formerly 31-30-508 (3)]** ~~Said officer, THE OLD HIRE member or employee~~ shall be paid a monthly pension equal to one-half the amount of ~~his~~ THE MEMBER'S monthly salary as of the date of ~~his~~ THE MEMBER'S retirement plus one-half of any increase in salary and longevity or additional pay based on length of service granted during the period of ~~his~~ THE MEMBER'S retirement to the rank occupied by ~~him~~ THE MEMBER in ~~said~~ THE department. ~~Said retired officer, THE member, or employee,~~ after retirement, shall continue to accrue longevity, and ~~his~~ THE MEMBER'S length of service shall continue to extend in the same manner and with the same limitations as if ~~he~~ THE MEMBER were still active and not retired. Said pension shall continue to be paid as long as the ~~officer, member or employee~~ is in retirement.

(4) **[Formerly 31-30-508 (4)]** All applicants for disability pensions shall be examined by one or more physicians selected for the purpose by the board and may be examined by one or more physicians selected by the applicant. All expenses of examination by the physician chosen by the board shall be paid by the board out of said fund.

(5) **[Formerly 31-30-508 (5)]** The board shall establish such general rules ~~and regulations~~ as it deems proper for the purpose of reexamination of all ~~persons~~ OLD HIRE MEMBERS who have been retired for disability to determine from time to time the fitness of such ~~persons~~ MEMBERS to return to active duty in ~~said~~ THE department. No such ~~person~~ MEMBER who has reached the age of fifty years, either before or after ~~his~~ THE MEMBER'S retirement, shall be reexamined. No such ~~person~~ MEMBER who has completed twenty-five years of active duty in ~~said~~ THE department before the date of such retirement shall be reexamined. No ~~person~~ MEMBER on the retired list shall be examined sooner than one year after date of retirement and not more often than once a year thereafter. In the event it is found by ~~said~~ THE board that any ~~officer, OLD HIRE member or employee~~ on the retired list has recovered from the disability ~~which~~ THAT caused ~~his~~ THE MEMBER'S retirement, such ~~person~~ MEMBER, if ~~he~~ THE MEMBER is under fifty years of age and has served less than twenty-five years of active duty, shall be removed from the retired list and ordered to report to the chief officer of ~~said~~ THE fire department within thirty days for assignment to active duty. During said period of thirty days such member may file a written protest in which ~~he~~ THE MEMBER shall state any objection that ~~he~~ THE MEMBER may have to ~~his~~ THE MEMBER'S removal from the retired list. The decision of ~~said~~ THE board shall be suspended pending a hearing on said protest, at ~~which~~ THAT hearing ~~such~~ THE member shall have a right to appear and to be represented by counsel. During the period that any ~~officer, member or employee~~ is ordered retired for disability by ~~said~~ THE board, such ~~officer,~~

member, ~~or employee~~, if under the age of fifty years and having served less than twenty-five years of active duty, shall be carried on a special roll of the fire department and listed as inactive.

(6) **[Formerly 31-30-508 (6)]** In any case where an ~~officer~~, OLD HIRE member ~~or employee~~ of the fire department IN A MUNICIPALITY HAVING A POPULATION OF AT LEAST ONE HUNDRED THOUSAND becomes mentally or physically disabled while not on active duty during regularly assigned hours of duty and from any cause not self-inflicted or due to the habitual use of intoxicants or drugs to an extent whereby ~~he~~ THE MEMBER is unable to perform ~~his~~ THE MEMBER'S regular fire department duties, ~~he~~ THE MEMBER shall be paid by the board, during the period of such disability and no longer, a monthly benefit equal to five percent of the amount set forth in subsection (3) of this section multiplied by the number of years ~~he~~ THE MEMBER has been in active service with ~~said~~ THE fire department; except that any such benefit under this section shall not exceed one-half of ~~his~~ THE MEMBER'S monthly salary as of the date of ~~his~~ THE MEMBER'S disability. The provisions covering examinations and reexaminations, as set forth in subsections (4) and (5) of this section, shall be applicable to all cases arising under this subsection (6).

(7) **[Formerly 31-30-509]** If any OLD HIRE member ~~officer, or employee~~ of ~~said~~ A fire department IN A MUNICIPALITY HAVING A POPULATION OF AT LEAST ONE HUNDRED THOUSAND dies from any cause while in the service or while on the retired list, leaving a surviving spouse, ~~whom such officer, member, or employee married previous to his application for retirement or previous to April 5, 1945, if he was then on the retired list, such marriage having been legally performed by a duly authorized person~~; such surviving spouse shall be awarded a monthly annuity equal to one-third of the monthly salary of such member ~~officer, or employee~~ at the time of ~~his~~ THE MEMBER'S death or retirement plus one-third of any increase in salary and longevity or additional pay based on length of service granted to ~~firemen~~ FIREFIGHTERS of the rank or comparable successor rank ~~which said~~ THAT THE member ~~officer, or employee~~ held in the department on the date of ~~his~~ THE MEMBER'S death or retirement so long as such surviving spouse remains unmarried. No dissolution of a subsequent marriage shall have the effect of reinstating said spouse on the pension roll or authorizing the granting of a pension. This section shall apply alike to surviving spouses of ~~firemen~~ FIREFIGHTERS and retired ~~firemen~~ FIREFIGHTERS who die after April 11, 1947, and to surviving spouses of ~~firemen~~ FIREFIGHTERS and retired ~~firemen~~ FIREFIGHTERS who were dead on said date, it being the intent of the general assembly to provide an annuity for all surviving spouses of ~~firemen~~ FIREFIGHTERS, which annuity shall increase or decrease proportionately to any increase or decrease in the current rate of pay of ~~firemen~~ FIREFIGHTERS.

(8) **[Formerly 31-30-510]** The board shall also order the payment to such surviving spouse or the legally appointed guardian of each child of such deceased OLD HIRE member ~~officer, or employee~~ of ~~said~~ THE fire department a monthly annuity of thirty dollars for each child, to continue until such child reaches the age of eighteen years. If such surviving spouse dies or there is no surviving spouse as limited and described but such deceased OLD HIRE member ~~officer, or employee~~ leaves surviving children under eighteen years of age, the board shall order a monthly payment equal to the full payment to which a ~~fireman's~~ FIREFIGHTER'S surviving spouse is entitled under ~~section 31-30-509~~ SUBSECTION (7) OF THIS SECTION to be divided equally among the children or a monthly payment of thirty dollars for each child, whichever

total amount is greater, to the guardian of ~~said~~ THE children for ~~said~~ THE children. In no event shall such surviving children of a deceased or retired ~~fireman~~ FIREFIGHTER receive an amount in excess of one-half of the current salary paid to a ~~fireman~~ FIREFIGHTER, first-grade, of said department.

(9) **[Formerly 31-30-512]** When an active or retired ~~fireman~~ FIREFIGHTER dies without necessary funeral expenses, the board shall appropriate from the fund a sum not exceeding one hundred dollars to the surviving spouse or family or other person paying said expenses for the purpose of assisting the proper burial of said deceased OLD HIRE member.

#### PART 8 EXEMPT PLANS

**31-30.5-801. [Formerly 31-30-325 (combines 31-30-325, 31-30-417, 31-30-522, and 31-30-621)] Exempt alternative programs authorized.** (1) Notwithstanding any other provision of this article OR THE PROVISIONS OF ARTICLE 31 THAT SPECIFICALLY REFER TO EXEMPT PLANS, any municipality, FIRE PROTECTION DISTRICT, OR COUNTY IMPROVEMENT DISTRICT, PRIOR TO JANUARY 1, 1980, may establish an alternative ~~police~~ POLICE OFFICERS' OR FIREFIGHTERS' pension benefit program or combination pension and insurance benefit program FOR POLICE OFFICERS OR FIREFIGHTERS ~~which~~ THAT, if found by an actuarial study to be actuarially sound, shall be exempt from all provisions of PARTS 3 TO 7 OF this ~~part 3~~ ARTICLE. Such program and any amendments thereto must be approved in an election held or vote called for that purpose, by at least sixty-five percent of the total votes cast by all ~~police~~ POLICE OFFICERS OR FIREFIGHTERS actively employed by the municipality, FIRE PROTECTION DISTRICT, OR COUNTY IMPROVEMENT DISTRICT and all former ~~employees~~ OLD HIRE MEMBERS who have earned pension rights or benefits under this ~~part 3~~ ARTICLE at the time the program is adopted or amended. No amendment of an exempt alternative program may be adopted ~~which~~ THAT would adversely affect the accrued pension benefits of former ~~employees~~ OLD HIRE MEMBERS. ONCE ESTABLISHED, SUCH EXEMPT ALTERNATIVE PROGRAM SHALL COVER ALL POLICE OFFICERS OR FIREFIGHTERS EMPLOYED BY THE MUNICIPALITY, FIRE PROTECTION DISTRICT, OR COUNTY IMPROVEMENT DISTRICT, REGARDLESS OF THE DATE OF HIRE. Any municipality, FIRE PROTECTION DISTRICT, OR COUNTY IMPROVEMENT DISTRICT having established an exempt alternative program pursuant to this section shall be entitled to receive its appropriate share of state contributions to local ~~police~~ POLICE OFFICERS' OR FIREFIGHTERS' pension funds and shall file any reports required to receive such state contributions. THE DATE LIMITATION OF JANUARY 1, 1980, ESTABLISHED IN THIS SUBSECTION (1) SHALL NOT BE CONSTRUED AS LIMITING THE ABILITY OF AN EMPLOYER TO ESTABLISH AN EXEMPT MONEY PURCHASE PLAN IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION AND SECTION 31-30.5-802.

(2) (a) NOT LATER THAN JANUARY 1, 1983, ANY EMPLOYER THAT COVERED ITS FIREFIGHTERS OR POLICE OFFICERS HIRED ON OR AFTER APRIL 8, 1978, UNDER THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED IN PART 4 OF ARTICLE 31 OF THIS TITLE, MAY WITHDRAW FROM THAT PLAN UPON ESTABLISHMENT OF A MONEY PURCHASE PLAN, IN ACCORDANCE WITH THE REQUIREMENTS GOVERNING EXEMPT ALTERNATIVE PROGRAMS UNDER SUBSECTION (1) OF THIS SECTION.

(b) SUCH MONEY PURCHASE PLAN SHALL INCLUDE ALL FIREFIGHTERS OR POLICE OFFICERS HIRED ON OR AFTER APRIL 8, 1978, AND MAY INCLUDE ALL OLD HIRE FIREFIGHTER OR POLICE OFFICER MEMBERS, AT THE OPTION OF THE EMPLOYER.

(c) THE MONEY PURCHASE PLAN SHALL BE APPROVED BY SIXTY-FIVE PERCENT OF ALL FIREFIGHTERS OR POLICE OFFICERS HIRED ON OR AFTER APRIL 8, 1978. IN ORDER FOR OLD HIRE FIREFIGHTER OR POLICE OFFICER MEMBERS TO BE INCLUDED IN SUCH PLAN, PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2), SIXTY-FIVE PERCENT OF THOSE MEMBERS SHALL APPROVE THE PLAN.

(d) ANY EMPLOYER DESIRING TO WITHDRAW PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL FILE A RESOLUTION WITH THE FIRE AND POLICE PENSION ASSOCIATION STATING SUCH INTENT. THE RESOLUTION SHALL ALSO STATE A REQUESTED EFFECTIVE DATE FOR WITHDRAWAL.

(e) THE WITHDRAWAL SHALL BE EFFECTIVE ON THE REQUESTED EFFECTIVE DATE OR ON THE FIRST DAY OF THE MONTH FOLLOWING CERTIFICATION BY THE FIRE AND POLICE PENSION ASSOCIATION OF THE APPROVAL OF THE MEMBERS, WHICHEVER OCCURS LATER.

**31-30.5-802. [Formerly 31-30-1003.3] Exempt money purchase plan option.** (1) ~~Notwithstanding any other provision of this article, Any employer which~~ THAT has not elected to affiliate with the fire and police pension association relating to a ~~local~~ AN OLD HIRE plan ~~such employer~~ established pursuant to ~~part 3, 4, 5, or 6~~ of this article may offer to the active OLD HIRE members of such plan the option of converting to a money purchase plan.

(2) Such option shall be available on an individual basis such that any member desiring to remain in the current defined benefit plan may do so.

(3) The money purchase plan offered may be a new plan established by the employer or an existing plan maintained for the benefit of other members employed in the same department.

(4) Any such money purchase plan shall be exempt from all provisions of ~~part 3, 4, 5, or 6~~ PARTS 3 TO 7 of this article. ~~respectively.~~

(5) The option may be offered only if approved by at least sixty-five percent of all active OLD HIRE members. If approved, a deadline shall be set for electing between the current plan and the money purchase plan. Prior to said deadline, the employer shall provide to each active OLD HIRE member a disclosure statement describing the differences between the current plan and the money purchase plan and a statement as to the minimum beginning account balance for such employee in the event of conversion to a money purchase plan.

(6) If any active OLD HIRE member elects to remain in the current plan, the employer shall continue to fund such plan on an actuarially sound basis with any unfunded liability being amortized over a period not to exceed twenty years after January 1, 1989.

(7) Within ninety days after the election is made by each active OLD HIRE

member, the employer shall make the final determination as to whether to adopt such option and shall be under no obligation to do so. In the event that the employer determines that the option will not be adopted at that time, the employer may reoffer the option at a later date in accordance with the provisions contained in this section.

(8) No such option may be adopted which, in its application, would adversely affect the pension benefits of retired OLD HIRE members.

(9) Nothing in this section shall be construed to prohibit an election by an employer to affiliate its local plan with the FIRE AND POLICE PENSION association after said employer has adopted a money purchase plan option pursuant to this section. Any such affiliation shall be governed by the provisions of ~~section 31-30-1003 (3)~~ SECTION 31-31-701.

~~(10) The board is authorized to enter into agreements with employers establishing money purchase pension plans pursuant to this section or part 3, 4, 5, or 6 of this article or this part 10 for the purpose of having the board administer such plans and manage the funds of such plans for investment pursuant to section 31-30-1012.3.~~

~~(11) Nothing in this section shall be construed to prohibit an employer who has adopted a local money purchase plan from electing and applying for coverage under the statewide money purchase plan pursuant to section 31-30-1005.3 (6).~~

**31-30.5-803. [Formerly 31-30-1012 (8)] Investment authority. ~~(8)(a)~~**

(1) Except as provided in ~~paragraph (b)~~ SUBSECTION (2) of this ~~subsection (8)~~ SECTION, moneys of exempt alternative ~~programs of employers which~~ PLANS THAT are not ~~in the fund~~ AFFILIATED WITH THE FIRE AND POLICE PENSION ASSOCIATION UNDER SECTION 31-31-702 OR 31-31-706 may be invested as provided in ~~subsection (5) of this section 31-31-302 (4)~~, but such investments shall meet earning performance standards established by the ~~board~~ FIRE AND POLICE PENSION ASSOCIATION BOARD OF DIRECTORS and shall be audited at least biennially.

~~(b)(f)~~ (2) (a) Notwithstanding any contrary provision in ~~subsection (5) of this section~~, SECTION 31-31-302 (4), assets of an exempt alternative ~~program~~ PLAN 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)~~ (I) 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~~ PLAN; and

~~(B)~~ (II) The fiduciary of the exempt alternative ~~program~~ PLAN is responsible for investing the assets of the ~~program~~ PLAN 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 (H) of this paragraph (b)~~ PARAGRAPH (b) OF THIS SUBSECTION (2).

~~(H)~~ (b) The fiduciary may allow a participant to exercise control of the investment of the participant's accrued benefit under the ~~program~~ PLAN, subject to the

following requirements:

~~(A)~~ (I) 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)~~ (II) The fiduciary shall allow the participant to change investments at least once each calendar quarter; and

~~(C)~~ (III) 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.

~~(H)~~ (c) 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~~ PLAN; except that nothing in this ~~subsection (8)~~ SECTION relieves a local government's responsibility as a fiduciary to the ~~program~~ PLAN.

~~(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.

## ARTICLE 31

### Fire - Police - New Hire Pension Plans

#### PART 1 GENERAL PROVISIONS

**31-31-101. [Formerly 31-30-1001] Legislative declaration.** The general assembly hereby declares that the establishment of ~~policemen's~~ POLICE OFFICERS' and firefighters' pension plans in this state is a matter of statewide concern ~~which~~ THAT affects the public safety and general welfare, that the ability of pension funds to pay earned benefits to present and future members is a necessary corollary to the establishment of pension plans, and that a statewide pension ~~plan which establishes~~ PLANS ESTABLISHING pension benefits ~~which~~ THAT can be fully funded with local moneys will permit the continuation of pension plans for ~~policemen~~ POLICE OFFICERS and firefighters in this state. In addition, the general assembly declares that any pension plan must be actuarially sound in order to assure the security of the pension

system and that this ~~part 10~~ ARTICLE is enacted to provide for the stability and security of ~~police~~ POLICE OFFICERS' and firefighters' pension plans in this state. The general assembly further declares that state moneys provided to municipalities, fire protection districts, and county improvement districts do not constitute a continuing obligation of the state to participate in the ongoing normal costs of pension plan benefits, except for state funding of death and disability benefits as specified in this ~~part 10~~ ARTICLE, but are provided in recognition that ~~said~~ THE local governments are currently burdened with financial obligations relating to pensions in excess of their present financial capacities. It is the intent of the general assembly in providing state moneys to assist ~~said~~ THE local governments that state participation decrease annually, terminating at the earliest possible date.

**31-31-102. [Formerly 31-30-1002 (1), (2), (4), (5), and (5.5)]**  
**Definitions.** As used in this ~~part 10~~ ARTICLE, unless the context otherwise requires:

(1) "Actuarially sound" means a ~~police~~ POLICE OFFICERS' or ~~fire~~ FIREFIGHTERS' pension fund determined by the board to be receiving or scheduled to receive employer and member contributions in each fiscal year equal to the annual contributions actuarially determined to be necessary to pay the annual current service cost of pension benefits attributable to active employees and to pay the annual contribution necessary to amortize any unfunded accrued liability over a period not to exceed forty years. The actuarial cost method to be utilized shall be the entry age-normal cost method. The date from which unfunded liabilities shall be amortized shall be determined pursuant to ~~part 8 of this article~~ PART 3 OF ARTICLE 30.5 OF THIS TITLE.

(2) "Board" means the board of directors established as the governing body of the fire and police pension association as provided in ~~section 31-30-1004 (2)~~ SECTION 31-31-201 (2).

~~(4)~~ (3) "Employer" means any municipality ~~special district, or county improvement district~~ IN THIS STATE offering POLICE OR fire protection service employing one or more members AND ANY SPECIAL DISTRICT OR COUNTY IMPROVEMENT DISTRICT IN THIS STATE OFFERING FIRE PROTECTION SERVICE EMPLOYING ONE OR MORE MEMBERS.

~~(5)~~ (4) "Member" means an active employee who is a full-time salaried employee of a municipality, fire protection district, or county improvement district normally serving at least one thousand six hundred hours in any calendar year and whose duties are directly involved with the provision of police or fire protection, as certified by the member's employer. ~~The term also includes any former employee who is retired, disabled, or eligible for a benefit as provided in section 31-30-1011 (2), but~~ The term does not include clerical or other personnel whose services are auxiliary to police or fire protection, "Member" ~~does not include~~ OR any volunteer firefighter, as such term is defined in section 31-30-1102 (9). For the purpose of eligibility for disability or survivor benefits, "member" includes any employee on an authorized leave of absence.

~~(5.5)~~ (5) "Money purchase plan" means a program under which member and employer contributions are accumulated with interest to purchase a benefit at retirement. The benefit amount is determined by actuarially converting the

accumulated sum in a member's retirement account into a monthly benefit based on uniform actuarial assumptions approved by the board for such plans. The term does not include a plan ~~which~~ THAT provides for minimum benefits or other defined benefits.

(6) "RETIRED MEMBER" MEANS ANY MEMBER WHO IS RETIRED, DISABLED, OR ELIGIBLE FOR A BENEFIT AS PROVIDED IN SECTION 31-31-404 (2).

PART 2  
ADMINISTRATION

**31-31-201. [Formerly 31-30-1004] Association - creation - board - organization.** (1) There is hereby created an independent public body corporate and politic to be known as the fire and police pension association. ~~Said~~ THE association is constituted as a public instrumentality, and its exercise of the powers conferred by this ~~part 10~~ ARTICLE AND ARTICLE 30.5 OF THIS TITLE shall be deemed to be the performance of an essential public function. The association shall be a body corporate and a political subdivision of the state and shall not be an agency of state government and shall not be subject to administrative direction by any department, commission, board, or agency of the state.

(2) (a) ~~Effective September 1, 1981,~~ The governing body of the association shall be a board of directors consisting of nine members appointed by the governor and confirmed by the senate as follows:

(I) Two members who shall represent Colorado municipal employers;

(II) One member who shall represent full-time paid ~~firemen~~ FIREFIGHTERS;

(III) One member who shall represent full-time paid ~~police~~ POLICE OFFICERS;

(IV) One member who shall be a retired ~~fireman~~ FIREFIGHTER who, upon completion of ~~his~~ THE MEMBER'S term, shall be replaced by a retired ~~police~~ POLICE OFFICER. Thereafter, the appointments of retired officers shall alternate between a retired ~~fireman~~ FIREFIGHTER and a retired ~~police~~ POLICE OFFICER for each successive four-year term.

(V) One member of a board of directors of a special district or the full-time paid professional manager of a special district who shall represent special districts having volunteer firefighters;

(VI) One member from the state's financial or business community with experience in investments;

(VII) One member from the state's financial or business community with experience in insurance disability claims; and

(VIII) One member of the state's financial or business community experienced in personnel or corporate administration in corporations of over two hundred employees.

(b) ~~Of the members first appointed, three members shall be appointed for a term of one year, two members shall be appointed for a term of two years, two members shall be appointed for a term of three years, and two members shall be appointed for a term of four years. Thereafter Members shall be appointed for terms of four years.~~

(c) Vacancy in any position shall be filled in the same manner as the original appointment was made. Appointments may be made without confirmation of the senate when the senate is not in session, but such appointments shall be confirmed within thirty days of the next meeting of the senate in regular session or they shall be void.

~~(e)~~ (d) The governor may remove any member of the board for cause.

(3) (a) The members of the board shall serve without compensation but shall be reimbursed for any necessary expenditures and shall suffer no loss of salary or wages through service on such board.

(b) The board shall elect a ~~chairman~~ CHAIR and a ~~vice-chairman~~ VICE-CHAIR, shall appoint a ~~secretary~~ AN EXECUTIVE DIRECTOR and such other employees as may be necessary, and shall fix the compensation for ~~said~~ THE appointees. The board shall have the authority to retain actuaries, investment counselors, private legal counsel, and other consultants as deemed necessary. The fees of such persons shall be considered expenses of the association.

(4) Neither the members of the board nor any person authorized by the board to act in an official capacity shall be held personally liable for any act undertaken pursuant to the provisions of this ~~part 10~~ ARTICLE AND ARTICLE 30.5 OF THIS TITLE.

**31-31-202. [Formerly 31-30-1005 (1) to (5)] Powers and duties of the board.** (1) The board shall:

(a) Establish standards for determining the actuarial soundness of:

(I) The PENSION PLANS IN THE FIRE AND POLICE MEMBERS' BENEFIT fund, in accordance with ~~section 31-30-1012~~ SECTION 31-31-301; and

(II) Alternative pension plans having defined benefits in whole or in part established pursuant to ~~section 31-30-1003 (2) (b)~~ SECTION 31-31-601 (1). Based upon such standards, the board shall require biennial actuarial reviews of such plans with the cost of ~~said~~ THE reviews to be paid by employers having established such plans.

(b) Establish standards for benefit projections for money purchase plans;

(c) Establish criteria for the determination of disability to administer the provisions of ~~section 31-30-1007~~ SECTION 31-31-803;

(d) Promulgate rules ~~and regulations~~ relating to standards for disclosure of all ramifications of and procedures for obtaining the member approval provided for

in ~~section 31-30-1003 (2) (b)~~ SECTION 31-31-601 (1);

(e) Administer or provide for the administration and, in accordance with the provisions of ~~section 31-30-1012 (2)~~ SECTION 31-31-302 (1), the investment of the fire and police members' benefit fund; ~~and, at the request of any local employer, may manage such employer's pension funds for investment;~~

(f) Borrow money in accordance with the provisions of section 24-75-203 (3), C.R.S.;

(g) Review or initiate proposed legislation affecting or related to the provisions of this ~~part 10~~ ARTICLE AND ARTICLE 30.5 OF THIS TITLE;

(h) Provide for disbursements from the fire and police members' benefit fund created by ~~section 31-30-1012~~ SECTION 31-31-301. Such disbursements shall be made only for payment of the expenses of the association, payment of refunds to members, payment of survivor, disability, or retirement benefits, or for purposes of investment.

(i) Make such modifications to the minimum annual rates of contribution certified to municipalities, fire protection districts, and county improvement districts as may be justified by actuarial studies approved by the board, subject to the requirements of ~~section 31-30-805~~ SECTION 31-30.5-304. In addition, the board shall supervise the establishment of such minimum annual rates of contribution for any nonexempt municipalities, fire protection districts, or county improvement districts ~~which~~ THAT, for any reason, did not receive such minimum annual rate of contribution. Such establishment and modification of minimum annual rates of contribution shall be conducted substantially in the manner provided by procedural regulations promulgated by the board.

(j) Promulgate such rules ~~and regulations~~ as may be necessary to implement the provisions of this ~~part 10~~ ARTICLE AND ARTICLE 30.5 OF THIS TITLE;

~~(k) Make agreements with governing bodies that provide pension plans for volunteer firefighters to administer such plans and manage the funds of such plans for investment;~~

~~(k)~~ (k) Approve or deny applications for coverage under the statewide money purchase plan pursuant to ~~section 31-30-1005.3 (6)~~ SECTION 31-31-501.

(2) (a) The board has the sole power to determine eligibility for retirement for disability, whether total or occupational, for any ~~police man~~ POLICE OFFICER or ~~fire man~~ FIREFIGHTER in this state whether or not such member is covered by the provisions of this ~~part 10~~ ARTICLE, except FOR THE FOLLOWING:

(I) Those ~~police men~~ POLICE OFFICERS and ~~fire men~~ FIREFIGHTERS having social security coverage and not affiliated as to disability; and ~~except~~

(II) Those ~~police men~~ POLICE OFFICERS and ~~fire men~~ FIREFIGHTERS whose employers ~~had~~ HAVE established exempt alternative pension plans, including exempt alternative defined benefit plans that are administered on an actuarially sound basis,

based upon assumptions and methodology adopted by the board for statewide use, on or before December 1, 1978, in accordance with the provisions of ~~section 31-30-325, 31-30-417, 31-30-522, or 31-30-621~~ PART 8 OF ARTICLE 30.5 OF THIS TITLE, UNLESS SUCH PLANS HAVE ELECTED TO BECOME COVERED UNDER THE STATEWIDE DEATH AND DISABILITY PLAN PURSUANT TO SECTION 31-31-801 (2).

(b) Except as provided in this subsection (2), the final power to determine disability status is vested in the board, but each employer shall determine whether positions are available for disabled members and shall make such appointments to ~~said~~ SUCH positions as it deems necessary.

(3) Under the direction of the board, each employer, including employers not covered by or specifically exempted from ~~this part 10~~ THE STATEWIDE DEFINED BENEFIT PLAN in accordance with the provisions of ~~section 31-30-1003 (2)~~ SECTION 31-31-401 (1), shall furnish such information and shall keep such records as the board may require for the discharge of its duties.

(4) (a) The board shall provide for and determine the cost of a statewide accidental death and disability insurance policy to cover all volunteer firefighters serving in volunteer or paid and volunteer fire departments, the insurance to be applicable only when serving as a volunteer firefighter. The policy shall be paid for as provided in ~~section 31-30-1112~~ SECTION 31-30-1112 (2) (h) from proceeds of the tax imposed by section 10-3-209, C.R.S.

(b) The board shall set the amount of coverage to be provided for each volunteer firefighter, take competitive bids for the policy from insurers, and make such rules ~~and regulations~~ as may be necessary to provide for the policy.

(c) The insurer shall have sole power to determine disability for volunteer firefighters under the policy provided by this subsection (4).

(5) (a) The board, in the performance of its duties under this article, shall have the power of subpoena over persons, and books, papers, records, and other things, and such power shall be enforceable by the courts; except that no subpoena shall be issued until ~~said~~ THE subpoena has been approved by a vote of the board.

(b) The ~~chairman~~ CHAIR of the board, or any other member of the board designated by the ~~chairman~~ CHAIR, shall have the power to administer oaths, in the performance of the duties of the board under this article.

(6) THE BOARD SHALL HAVE SUCH OTHER POWERS AND DUTIES AS ARE SPECIFICALLY GRANTED PURSUANT TO THIS ARTICLE AND PARTS 1 TO 7 OF ARTICLE 30.5 OF THIS TITLE.

**31-31-203. [Formerly 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~~ THAT 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 31-30-1005.3, 31-30-1012, and 31-30-1012.3~~ SECTIONS 31-31-301, 31-31-502, AND 31-31-703, 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~~ SUCH funds. ~~Said~~ THE funds shall be held and distributed for the purpose of this ~~part 10~~ ARTICLE and for no other purpose whatsoever.

PART 3  
FIRE AND POLICE MEMBERS' BENEFIT FUND

**31-31-301. Fund - creation.** (1) [~~Formerly 31-30-1012 (1) (a)~~] (a) There is hereby created the fire and police members' benefit fund, which shall consist of ~~moneys of employers in the association and moneys of~~ ASSETS OF THE FOLLOWING fire and police benefit plans, including member CONTRIBUTIONS, employer CONTRIBUTIONS, and any state contributions, ~~made pursuant to this part 10~~ fees collected, gifts received, unclaimed deposits, and investment income ~~together with the assets of funds established pursuant to part 3, 4, 5, 6, or 11 of this article, of those employers not in the association electing to have their funds managed by the board, those employers electing affiliation as provided in section 31-30-1003 (3), and those volunteer firefighter departments electing to have their funds administered and managed by the board pursuant to section 31-30-1005 (1) (k):~~

(I) THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED IN PART 4 OF THIS ARTICLE;

(II) OLD HIRE POLICE AND FIRE PENSION PLANS ESTABLISHED IN ARTICLE 30.5 OF THIS TITLE, WHICH ARE AFFILIATED WITH THE ASSOCIATION PURSUANT TO PART 7 OF THIS ARTICLE;

(III) EXEMPT PLANS ESTABLISHED PURSUANT TO PART 8 OF ARTICLE 30.5 OF THIS TITLE, WHICH ARE AFFILIATED WITH THE ASSOCIATION PURSUANT TO PART 7 OF THIS ARTICLE; AND

(IV) VOLUNTEER FIREFIGHTER PENSION PLANS, WHICH ARE AFFILIATED WITH THE ASSOCIATION PURSUANT TO PART 7 OF THIS ARTICLE.

(b) The board shall keep an accurate account of each ~~employer's and department's~~ fund and shall disburse moneys in accordance with the provisions of ~~this part 10 and part 11~~ of this article.

~~(b)~~ (2) There shall be established in the fund a disability and death benefits account into which contributions for death and disability benefits, including state contributions made pursuant to ~~section 31-30-1014~~ SECTION 31-31-811, shall be deposited. The benefits provided by ~~sections 31-30-1007 and 31-30-1008~~ PART 8 OF THIS ARTICLE, together with the expenses of administering ~~said sections~~ SUCH PART, shall be paid from such account.

~~(c)~~ (3) (a) There shall be established in the fund a new hire benefits account, into which contributions made pursuant to ~~section 31-30-1013~~ SECTION 31-31-402

~~other than for death and disability benefits~~, shall be deposited. The benefits provided by ~~sections 31-30-1006, 31-30-1011, and 31-30-1018~~ THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED IN PART 4 OF THIS ARTICLE, together with the expenses of administering ~~said sections~~ THE PLAN, shall be paid from such account.

(b) ~~[Formerly 31-30-1012.5]~~ (†) Within the new hire benefits account, ~~created by section 31-30-1012 (1) (c)~~; there shall be established two subaccounts:

(a) (I) An actuarial account, into which that portion of the new hire benefits account necessary to fund benefit liabilities accrued under ~~sections 31-30-1006 and 31-30-1011~~ (2) SECTIONS 31-31-403 AND 31-31-404 (2), as determined by the 1987 actuarial study, shall be deposited;

(b) (II) A stabilization reserve account, into which the remainder in the new hire benefits account, after allocation pursuant to ~~paragraph (a) of this subsection (1)~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), may be deposited.

(2) (c) 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~~ PART 4 OF THIS ARTICLE.

(3) (d) In each year after 1993, if the board determines that, based upon the annual actuarial study, moneys in the disability and death benefits account are inadequate to fund the benefit liabilities of that account with respect to those members covered by the ~~normal retirement provisions of this part 10~~ THE STATEWIDE DEFINED BENEFIT PLAN, then such amount as may be necessary to fund the benefit liabilities for these members shall be transferred from the stabilization reserve account to the disability and death benefits account.

**31-31-302. [Formerly 31-30-1012 (2) to (7) and (9)] Fund - management - investment.** (2) (1) The board shall be the trustee of the fund and shall have full and unrestricted discretionary power and authority to invest and reinvest such portions of the fund as in its judgment may not be immediately required for the payment of refunds or benefits. In exercising its discretionary authority with respect to the acquisition or disposition of any investments, the board shall be governed by the standard for investments prescribed in section 15-1-304, C.R.S., except as provided in ~~subsection (5)~~ SUBSECTION (4) of this section. The board may, by resolution, delegate to its ~~secretary~~ EXECUTIVE DIRECTOR, appointed pursuant to ~~section 31-30-1004 (3) (b)~~ SECTION 31-31-201 (3) (b), the investment authority created by ~~this subsection (2)~~ SUBSECTION (1). The board shall not delegate to its

~~secretary~~ EXECUTIVE DIRECTOR the authority to invest or reinvest more than five percent of the market value of the assets of the fund between regularly scheduled meetings of the board.

~~(3)~~ (2) The board shall designate one or more financial institutions as custodians of the fund. All moneys paid or transmitted to the custodian shall be credited to appropriate accounts in the fund and the custodian shall maintain a current inventory of all investments of the fund.

~~(4)~~ (3) Disbursements from the fund shall be made, subject to the approval of the board, only for payment of the expenses of the association, refunds to the members, benefits, and investment purposes.

~~(5)~~ (4) (a) Subject to the limitations on investments described in section 15-1-304, C.R.S., the board may invest all or any part of the fund in the types of investments authorized by such section, including, but not limited to, ~~in~~ obligations of the United States government and ~~in~~ obligations fully guaranteed as to principal and interest by the United States government, in state and municipal bonds, in corporate notes, bonds, or debentures, convertible or otherwise, in railroad equipment trust certificates, in real property and in loans secured by first mortgages or deeds of trust on real property, in participation guarantee agreements with life insurance companies, in real estate limited partnerships, and in other types of investment agreements. ~~and the foregoing~~ SUCH investments may be made without limitation as to the percentage of the book value of the assets of the retirement fund so invested. Investments may also be made in either common or preferred corporate stocks, but the original cost of all investments in corporate stocks or corporate bonds, notes, or debentures ~~which~~ THAT are convertible into corporate stock, or in investment trust shares, shall not exceed fifty percent of the then book value of the assets of the fund. In no event shall any investment be made in the common or preferred stock, or both, of any single corporation in an amount in excess of five percent of the then book value of the assets of the fund, nor shall more than seven percent of the outstanding stock or bonds of any single corporation be acquired for the fund; except that the board may acquire up to one hundred percent of the outstanding stock of any corporation described in sections 501 (c) (2) and 501 (c) (25) of the "Internal Revenue Code of 1986", as amended. To the extent that any moneys in the fund have been withdrawn from local financial institutions, the board shall attempt to return a proportional share of such moneys in the fund to the localities from which moneys were withdrawn.

(b) As used in this ~~subsection (5)~~ SUBSECTION (4), unless the context otherwise requires:

(I) "Book value" means current market value.

(II) "Current market value" means the current exchange price of an asset that is publicly traded, and, for a nonpublicly traded asset, it means the current valuation as reflected in the books of the association.

(III) "Original cost" means the acquisition cost of an asset.

~~(6)~~ (5) (a) The board shall purchase and acquire and hold for the benefit of

the fund such investments in such amounts as may from time to time be directed by the board in writing. Any such investments shall be disposed of by the board when it determines such disposition to be necessary to provide money for payment of refunds or pension benefits or in order to reinvest the proceeds of such disposition in other investments determined by the board to be in the best interests of the fund.

(b) Notwithstanding any other provision of this section, the board may employ or contract with investment counselors to manage 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. The investment counselors retained by the board shall at all times be subject to the standards and limitations set forth in ~~subsection (5)~~ SUBSECTION (4) of this section and section 15-1-304, C.R.S.

~~(7)~~ (6) All transactions involving the purchase and sale of investments authorized in this section shall be effected on behalf of the association. To facilitate sale and exchange transactions, securities belonging to the association may be registered in the name of nominees in the discretion of the board and in accordance with standard business practices. All such nominees shall be bonded in such amounts as may be determined to be advisable by the board.

~~(9)~~ (7) The board shall submit an annual audit of the fund to the general assembly and the annual audit of the fund and annual actuarial study, with assumptions, to each employer. Each employer shall make the audit and study available for review by its members.

#### PART 4 STATEWIDE DEFINED BENEFIT PLAN

**31-31-401. [Formerly 31-30-1003 (1), (2) (a) (I), (4), (5), and (7)] 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~~ PART 4 for members hired on or after April 8, 1978, EXCEPT FOR THE FOLLOWING:

~~(2)(a)(I)~~ (a) Any employer ~~which~~ THAT covers members under the federal "Social Security Act"; ~~shall be exempt from the provisions of this part 10 except the provisions of section 31-30-1005 (3).~~

(b) ANY EMPLOYER THAT COVERS MEMBERS UNDER AN EXEMPT PLAN ESTABLISHED PURSUANT TO PART 8 OF ARTICLE 30.5 OF THIS TITLE;

(c) ANY EMPLOYER THAT HAS WITHDRAWN ITS MEMBERS FROM THE STATEWIDE DEFINED BENEFIT PLAN PURSUANT TO PART 6 OF THIS ARTICLE AND ESTABLISHED A LOCALLY ADMINISTERED AND FINANCED ALTERNATIVE PENSION PLAN;

(d) ANY EMPLOYER THAT HAS WITHDRAWN ITS MEMBERS FROM THE STATEWIDE DEFINED BENEFIT PLAN FOR THE PURPOSE OF COVERING THEM UNDER THE STATEWIDE MONEY PURCHASE PLAN ESTABLISHED PURSUANT TO PART 5 OF THIS ARTICLE; AND

(e) ANY EMPLOYER THAT COVERS A MEMBER HIRED ON OR AFTER APRIL 8, 1978, BUT BEFORE JANUARY 1, 1980, UNDER AN OLD HIRE PENSION PLAN AS PERMITTED BY SECTION 31-30.5-103 (1).

~~(4)~~ (2) Nothing in this ~~part 10~~ PART 4 shall affect retirement pensions or disability or survivor benefits of members hired prior to April 8, 1978, who retired, were disabled, or died prior to January 1, 1980.

~~(5)~~ (3) WHERE an employer ~~resulting~~ RESULTS from a merger, a consolidation, or an exclusion or dissolution proceeding between or among one or more employers, ~~existing on or before December 31, 1979~~; including a new governmental entity created by intergovernmental agreement between or among one or more employers, ~~existing on or before December 31, 1979, shall not be considered an employer first established on or after January 1, 1980.~~ all members transferred to or employed by such resulting employer shall, for the purposes of this article AND ARTICLE 30.5 OF THIS TITLE, have those rights and obligations they had prior to the merger, consolidation, exclusion, dissolution, or intergovernmental agreement. In the event of a transfer of members, provision shall be made in such agreement or proceeding for allocation and transfer of plan assets, and, in the event of the transfer of members of a defined benefit plan, provision shall be made in such agreement or proceeding for discharging plan liabilities and funding in order to maintain or enhance the actuarial soundness of the remaining and resulting plans. If the resulting employer had no members prior to the merger, consolidation, exclusion, or dissolution, it may continue as its plan any ~~part 10~~ plan of a transferring employer, AUTHORIZED BY THIS ARTICLE, for its members hired after the effective date of the agreement or proceeding or the resulting employer shall belong to the statewide DEFINED BENEFIT plan. The board may authorize the resulting employer to consolidate preexisting retirement plans and any retirement plan attributable solely to the resulting employer into one or more plans if the plans to be consolidated are identical, the benefits are equal for all members covered under the retirement provisions of the plans, and no member suffers a reduction of benefits or an increase in member contributions due to such plan consolidation.

~~(7)~~ (4) (a) A department chief HIRED ON OR AFTER APRIL 8, 1978, shall be exempted from the ~~provisions of this part 10, except sections 31-30-1005 (2), 31-30-1007, and 31-30-1008~~ STATEWIDE DEFINED BENEFIT PLAN, upon the execution of a written agreement between such department chief and ~~his~~ THE CHIEF'S employer and the submission of notice to the association. Alternatively, a department chief, with the agreement of ~~his~~ THE CHIEF'S 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.~~ SECTION 31-31-501.

(b) FOR PURPOSES OF THIS SUBSECTION (4), A "DEPARTMENT CHIEF" MEANS THE SENIOR COMMAND OFFICER OF ANY FIRE OR POLICE DEPARTMENT OF ANY EMPLOYER, BY WHATEVER TITLE KNOWN, INCLUDING BUT NOT LIMITED TO CHIEF, ADMINISTRATOR, OR DIRECTOR.

**31-31-402. [Formerly 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~~ PART 4 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 FEDERAL "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~~ THAT are used in paying salaries to the employees. Such contributions, although designated as employee 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~~ PART 4 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 DECLARES 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~~ 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. ~~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.

(4) The payments required by this ~~part 10~~ SECTION are subject to penalties if not submitted when due. Payments are due no later than ten days following the date of payment of salary to the member, unless the salary is paid more than once monthly, in which event such payments are due no later than the tenth day of the month following the month the salary is paid to the member. An interest charge of one-half of one percent per month shall be levied against any unpaid amount and added to the

employer payments required pursuant to this section.

**31-31-403. [Formerly 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~~ THE MEMBER'S 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.

(b) The board shall determine after each annual actuarial valuation if the cost of all benefits established by this ~~part 10~~ PART 4 for members covered under this section and the cost of a normal retirement pension beginning from one to sixty months before ~~attainment of AGE sixty years of age~~ for members then eligible ~~can~~ 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 31-30-1013~~ SECTION 31-31-402. If the board so determines, it shall order that the normal retirement pension commence such number of months as are actuarially supportable, from one to sixty, before ~~attainment of age sixty~~ 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 before age sixty pursuant to this paragraph (b) shall not be subject to annual review. If a court determines that this paragraph (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.

~~(1.5)~~ (2) (a) If in any year the board determines pursuant to this ~~part 10~~ PART 4 that the cost of the benefits described in paragraph (b) of subsection (1) of this section, excluding the benefit described in ~~section 31-30-1017~~ SECTION 31-31-405, ~~cannot~~ 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 31-30-1013~~ SECTION 31-31-402, the board shall not increase such employer or member contributions unless:

(I) The board has terminated the benefit described in ~~section 31-30-1017~~ SECTION 31-31-405; and ~~unless~~

(II) The board has transferred all funds in the stabilization reserve account to the actuarial account as required by ~~section 31-30-1012.5 (2) and (3)~~ SECTION 31-31-301 (3) (b) AND (3) (c), except such funds as are attributable to the separate retirement account of any member who has terminated service after at least ten years of credited service.

(b) Nothing in this ~~subsection (1.5)~~ SUBSECTION (2) shall be construed to prohibit the board from utilizing the provisions of ~~section 31-30-1012.5~~ SECTION 31-31-301 (3) to provide the benefit described in ~~section 31-30-1017~~ SECTION 31-31-405 in any subsequent year when the total amount of additional deposits to the

new hire benefits account exceeds the amount needed to meet the benefit liabilities funded by the actuarial account pursuant to ~~section 31-30-1012.5~~ SECTION 31-31-301 (3).

~~(2)~~ (3) Any member retiring and eligible for a normal retirement pension as provided by subsection (1) of this section may elect to defer receipt of such pension until attaining the age of sixty-five years. In the case of such election, the annual deferred retirement pension shall be the actuarial equivalent of the normal retirement pension.

~~(3)~~ (4) 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~~ 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 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.

~~(4)~~ (5) (a) A member eligible for a normal, deferred, or early retirement pension may elect to receive one of the following pension options in lieu of a pension computed in accordance with ~~subsection (1), (2), or (3)~~ SUBSECTION (1), (3), OR (4) of this section:

(I) Option 1. A reduced pension payable to the member and upon ~~his~~ THE MEMBER'S death, all of such reduced pension to be paid to ~~his~~ THE MEMBER'S designated beneficiary for life.

(II) Option 2. A reduced pension payable to the member and upon ~~his~~ THE MEMBER'S death, one-half of such reduced pension to be paid to ~~his~~ THE MEMBER'S designated beneficiary for life.

(III) Option 3. A reduced pension payable jointly to the member and ~~his~~ THE MEMBER'S designated beneficiary and, upon the death of either, one-half of such reduced pension to be paid to the survivor for life.

(b) A member shall be considered to have elected option 1 and retired on the day before ~~his~~ THE MEMBER'S death if ~~he~~ THE MEMBER is eligible for a normal or early retirement pension and dies:

(I) Before making an election as provided in paragraph (a) of this ~~subsection~~ ~~(4)~~ SUBSECTION (5); ~~and~~

(II) Before receiving ~~his~~ THE MEMBER'S first pension check or sixty days from the date of issuance of such check, whichever occurs first; and

(III) Is survived by a spouse or a dependent child.

(c) After an election has been made of any of the options provided in paragraph (a) of this ~~subsection (4)~~ SUBSECTION (5) and the member has cashed the first pension check, or sixty days from date of issuance of ~~said~~ THE check have

elapsed, whichever occurs first, the election shall be irrevocable. The member's beneficiary designation shall also be irrevocable at such time unless the member's marital status changes as the result of dissolution of marriage, death of a beneficiary, marriage, remarriage, or in the event of the death of a beneficiary. In such case, the member may designate a new beneficiary; except that, in cases of dissolution of marriage, this provision shall only apply to any final dissolution of marriage decree of a member entered on or after July 1, 1990.

(d) The joint pension benefits provided by this ~~subsection (4)~~ SUBSECTION (5) shall be calculated as the actuarial equivalent of the normal or early retirement pension otherwise payable as provided in ~~subsections (1) to (3)~~ SUBSECTIONS (1), (3), AND (4) of this section. In the event of a change in beneficiary designation pursuant to paragraph (c) of this ~~subsection (4)~~ SUBSECTION (5), the joint pension benefits payable shall be recalculated so as to be the actuarial equivalent of the remainder of the original pension benefits based upon the member's initial beneficiary designation, if any.

~~(5)~~ (6) If the total amount of pension benefits paid as provided in this section is less than the amount of the member's accumulated contributions at ~~his~~ THE TIME OF death, the difference shall be paid to:

(a) The member's estate if no pension payment was made pursuant to ~~subsection (4)~~ SUBSECTION (5) of this section; or

(b) The survivor's estate if pension payments were made pursuant to ~~subsection (4)~~ SUBSECTION (5) of this section.

~~(6)~~ (7) 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~~ PART 4. 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~~ PART 4 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~~ PART 4 only on the basis of ~~the~~ agreements made with the board.

**31-31-404. [Formerly 31-30-1011] Return or transfer of contributions - vested retirement.** (1) (a) Any member covered by the statewide defined benefit plan established by this ~~part 10~~ PART 4 and terminating ~~his~~ service may elect to have ~~his~~ THE MEMBER'S accumulated contributions refunded to ~~him~~ in a lump sum and shall sign a statement to be filed with ~~his~~ THE MEMBER'S employer evidencing such election and acknowledging that ~~said~~ THE member has no right to benefits provided by this ~~part 10~~ ARTICLE. A member shall only be eligible for a refund, from the association, of the contributions paid by ~~him~~ THE MEMBER to the association and any of ~~his~~ THE MEMBER'S 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~~ THE MEMBER may be entitled from a nonaffiliating employer pursuant to policies established by ~~said~~ THE employer prior to December 1, 1978. In addition to receiving ~~his~~ accumulated contributions, the member shall also receive,

as interest, five percent of ~~his~~ THE MEMBER'S 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~~ THAT covers its members under the statewide defined benefit plan, ~~his~~ THE MEMBER'S prior service credit shall be restored when ~~he~~ THE MEMBERS returns ~~his~~ THE MEMBER'S refunded contributions, with interest to the date of refund. If the member fails to return such contributions and interest, ~~he~~ THE MEMBER shall be treated as a new member and ~~his~~ THE MEMBER'S prior service shall not be recognized in determining pension eligibility or pension benefits.

(2) (a) In lieu of having ~~his~~ THE MEMBER'S contributions returned as provided in paragraph (a) of subsection (1) of this section, a member who has at least ten years of credited service may leave ~~his~~ THE CONTRIBUTIONS with the fund. When the inactive member attains age sixty-five, ~~he~~ THE MEMBER shall be eligible to receive an annual vested benefit equal to two percent of ~~his~~ THE MEMBER'S average highest three years' salary multiplied by ~~his~~ 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 31-30-1006 (4)~~ SECTION 31-31-403 (5). All the provisions of ~~section 31-30-1006 (4)~~ SECTION 31-31-403 (5) shall apply to ~~said~~ 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 31-30-1006~~ 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 ~~his~~ THE MEMBER'S benefit payments, the fire and police pension association shall refund the inactive member's contributions to ~~his~~ 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 10~~ PART 4 for members covered under ~~section 31-30-1006~~ SECTION 31-31-403 and the cost of vested benefits beginning from one to one hundred twenty months before AGE sixty-five ~~years of age~~ for members then eligible, ~~can~~ 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 31-30-1013~~ SECTION 31-31-402. If the board so determines, it shall order that the vested benefits commence such number of months as are actuarially supportable, from one to one hundred twenty, before ~~attainment~~ of age sixty-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 sixty-five pursuant to this paragraph (b) shall not be subject to annual review. If a court determines that this paragraph (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.

**31-31-405. [Formerly 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)~~ SECTION 31-31-301 (3) (a) (II) 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 10~~ PART 4, except such members as are covered on a supplemental basis pursuant to ~~section 31-30-1003.5~~ SECTION 31-31-704.

(2) Such amount as may be allocated to the stabilization reserve account pursuant to ~~section 31-30-1012.5 (2)~~ SECTION 31-31-301 (3) (b) shall be further allocated to each member's separate retirement account based upon the difference between a member's employer and employee contributions to the new hire benefits account for each payroll period and the proportionate amount of such contributions ~~which~~ THAT is allocated to the actuarial account pursuant to ~~section 31-30-1012.5 (2)~~ SECTION 31-31-301 (3) (b).

(3) Earnings accruing on the amount allocated to the member's separate retirement account shall be allocated at least monthly on a time-weighted basis as determined by the board.

(4) Any amount allocated to a member's separate retirement account shall be subject to reduction prior to the time a member has terminated ~~his~~ service in the event that additional amounts must be transferred to the actuarial account or the disability and death benefits account as set forth in ~~section 31-30-1012.5~~ SECTION 31-31-301 (3) (b) AND (3) (c). Reductions in a member's separate retirement account pursuant to this subsection (4) 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.

**31-31-406. [Formerly 31-30-1018] Separate retirement accounts - administration.** (1) Any member having a separate retirement account who terminates ~~his~~ service and at the time of termination has less than ten years of credited service or who terminates ~~his~~ service and at the time of termination has more than ten years of credited service but elects a refund of contributions as provided under ~~section 31-30-1011 (1) (a)~~ SECTION 31-31-404 (1) (a) shall forfeit the entire balance in ~~his~~ THE MEMBER'S separate retirement account to the actuarial account.

(2) Any member having a separate retirement account who is retired for disability or who dies prior to termination shall forfeit the entire balance in ~~his~~ THE MEMBER'S separate retirement account to the actuarial account.

(3) Any member retiring pursuant to the provisions of ~~section 31-30-1006~~ ~~or 31-30-1011 (2)~~ SECTION 31-31-403 OR 31-31-404 (2) may elect to receive the balance in ~~his~~ THE MEMBER'S separate retirement account in accordance with one of the following payment options:

(a) Option 1: In a lump sum;

(b) Option 2: In periodic installments of a specified and substantially equal amount, payable monthly over a period not to exceed the joint life expectancy of the member and ~~his~~ THE MEMBER'S spouse. ~~and~~ This maximum period shall be determined under the applicable actuarial tables then being used by the association

at the time the initial monthly installment payment becomes payable.

(c) Option 3: In an annuity. The member may choose an annuity payable to ~~him~~ THE MEMBER for life or ~~he~~ may choose any of the joint and survivor options permitted by ~~section 31-30-1006 (4) (a)~~ SECTION 31-31-403 (5) (a).

(4) A member may elect to commence payment of the amount in ~~his~~ THE MEMBER'S separate retirement account at any time after ~~he~~ THE MEMBER terminates ~~his~~ service but in no event later than the commencement of ~~his~~ THE MEMBER'S retirement benefits under ~~section 31-30-1006 or 31-30-1011 (2)~~ SECTION 31-31-403 OR 31-31-404 (2). A member will continue to accrue earnings on the amount in ~~his~~ THE MEMBER'S separate retirement account until such time as ~~he~~ THE MEMBER begins receiving payments under one of the options in subsection (3) of this section.

(5) The restoration of a member's service credit pursuant to ~~section 31-30-1011 (1) (b)~~ SECTION 31-31-404 (1) (b) shall not entitle the member to reinstatement of any previously forfeited balance in the member's separate retirement account.

(6) If a member terminates ~~his~~ service with less than ten years of credited service and does not elect a refund of ~~his~~ 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 31-30-1017~~ 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 10~~ PART 4, the member shall be credited with any amount which has accrued in ~~his~~ THE MEMBER'S separate retirement account.

**31-31-407. [Formerly 31-30-1010] Adjustment of benefits.** (1) The benefits payable under the statewide defined benefit plan established by this ~~part 10~~ PART 4 and those payable pursuant to ~~section 31-30-1007 and 31-30-1008~~ THE STATEWIDE DEATH AND DISABILITY PLAN ESTABLISHED IN PART 8 OF THIS ARTICLE 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)~~ SECTION 31-31-401 (1) which, on January 1, 1980, were providing an annual cost of living adjustment to pension benefits provided pursuant to this article OR ARTICLE 30.5 OF THIS TITLE. ~~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)~~ SECTION 31-30.5-307 (1) (b) (II).

(2) Subject to the limitations contained in subsection (3) of this section, the redetermination of benefits payable under subsection (1) of this section shall be computed as follows: The amount of the benefit on the effective date of the benefit shall be increased by a percentage to be determined by the board but no more than three percent for each full year contained in the period commencing with the effective date of the benefit and ending with the effective date of the redetermination.

(3) (a) In no event shall the redetermined amount provided for in subsection (2) of this section be:

(I) Less than the amount of the benefit on the effective date of the benefit;  
or

(II) More than the amount of the benefit on the effective date of the benefit multiplied by a fraction, the numerator of which shall be the average of the consumer price index for the twelve months in the calendar year immediately preceding the effective date of the redetermination and the denominator of which shall be the average of the consumer price index for the twelve months in the calendar year immediately preceding the effective date of the benefit. In no event shall the numerator of ~~said~~ THE fraction be less than the denominator.

(b) As used in paragraph (a) of this subsection (3), the term "consumer price index" means the national consumer price index for urban wage earners and clerical workers prepared by the United States department of labor. Such consumer price index shall be deemed to have such base period as is in effect January 1, 1969.

(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~~ PART 4 AND PART 8 OF THIS ARTICLE.

**31-31-408. [Formerly 31-30-1006.5] Modification of state plan by the board.** (1) Notwithstanding any other provision of this ~~part 10~~ PART 4, the board may modify the pension benefits and the age and service requirements for pension benefits set forth in this ~~part 10~~ PART 4 with respect to the members of the statewide defined benefit plan if:

(a) The board determines that such modification will maintain or enhance the actuarial soundness, as specified in ~~section 31-30-1002 (1)~~ SECTION 31-31-102 (1), of the plan;

(b) The modification does not require an increase in the employer and member contribution rates established as of January 1, 1980, pursuant to ~~section 31-30-1013~~ SECTION 31-31-402;

(c) The modification does not adversely affect the plan's status as a qualified plan pursuant to the federal "Internal Revenue Code of 1986", AS AMENDED;

(d) The modification is approved by sixty-five percent of the active members of the plan;

(e) The modification is approved by 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; and

(f) The modification does not adversely affect the pension benefits of retired members.

(2) In no event shall the board adopt a modification ~~which~~ THAT reduces the statewide defined benefit plan's normal retirement age below that permitted by ~~section 31-30-1006 (1) (b)~~ SECTION 31-31-403 (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 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.

(5) If at any time the cost of any modification adopted by the board pursuant to this section would require an increase in the eight percent employer and eight percent member contributions made pursuant to ~~section 31-30-1013~~ SECTION 31-31-402, the board shall revoke the modification as it applies to active members of the plan. The board may reinstitute the modification at a later date, in its discretion, if reinstating the modification would not require an increase in the eight percent employer and eight percent member contributions made pursuant to ~~section 31-30-1013~~ SECTION 31-31-402.

**31-31-409. [Formerly 31-30-1019] Qualification requirements - internal revenue code.** (1) As used in this section, "internal revenue code" means the federal "Internal Revenue Code of 1954", as in effect on September 1, 1974, if permitted with respect to governmental plans, or, to the extent not inconsistent with the federal "Internal Revenue Code of 1954", as in effect on September 1, 1974, "internal revenue code" means the federal "Internal Revenue Code of 1986", as amended and in effect on January 1, 1989.

(2) The statewide defined benefit plan established by this ~~part 10~~ PART 4 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 defined benefit plan is subject to the following provisions, notwithstanding any other provision of this ~~part 10~~ PART 4:

(a) The board shall distribute the corpus and income of the pension plan to members and their beneficiaries in accordance with this ~~part 10~~ PART 4 and the rules ~~and regulations~~ adopted by the board.

(b) No part of the corpus or income of the pension plan may be used for or diverted to any purpose other than that of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the plan.

(c) Forfeitures arising from severance of employment, death, or any other reason may not be applied to increase the benefits any member would otherwise receive under this ~~part 10~~ PART 4.

(d) If the pension plan is terminated, or if all contributions to the pension plan are permanently discontinued, the rights of each affected member to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(e) All benefits paid from the pension plan shall be distributed in accordance with the requirements of section 401 (a) (9) of the internal revenue code and the regulations promulgated under that section. In order to meet those requirements, the pension plan is subject to the following provisions:

(I) The life expectancy of a member, the member's spouse, or the member's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(II) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(III) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the internal revenue code.

(f) The board may not determine eligibility for benefits, compute rates of contribution, or compute benefits of members or beneficiaries in a manner that discriminates in favor of members who are considered officers, supervisors, or highly compensated, as prohibited under section 401 (a) (4) of the internal revenue code.

(g) Benefits paid under the statewide defined benefit plan established by this ~~part 10~~ PART 4 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.

(h) The compensation taken into account under this ~~part 10~~ PART 4 may not exceed the applicable amount under section 401 (a) (17) of the internal revenue code.

(i) The board may not engage in a transaction prohibited by section 503 (b) of the internal revenue code.

(j) Any distributee who is entitled to an eligible rollover distribution, as defined in section 402 (c) (4) of the internal revenue code, from the statewide pension plan on and after January 1, 1993, may elect to have the portion of such distribution ~~which~~ THAT would otherwise be included in the gross income of the distributee for federal income tax purposes transferred directly to an eligible retirement plan, as defined in section 402 (a) (5) (E) (iv) of the internal revenue code, designated by the distributee.

#### PART 5 STATEWIDE MONEY PURCHASE PLAN

**31-31-501. [Formerly 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~~ PART 4 OF THIS ARTICLE 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~~ SECTION 31-31-502.

(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 nine 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 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), but such approval must be obtained no later than June 1 of the year preceding the effective date of withdrawal.

(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~~ THAT 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) (I) 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~~ THE 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 employer's 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 will not have an adverse financial impact on the actuarial soundness of the new hire benefits account, the board shall transfer such employer's share of the employer contribution reserve in the new hire benefits account, as determined by the actuary, and all member contributions for the employer's active members to a short-term investment 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.

(II) At least sixty days prior to the effective date of the withdrawal, the actuarial reports shall be updated and adjustments made, as appropriate, to the amount of reserves transferred by the board to the short-term investment account on behalf of the employer. Within thirty days of the receipt of such updated reports, the withdrawal may be terminated by either:

(A) The employer filing with the board a subsequent resolution revoking the employer's resolution of intent to withdraw; or

(B) More than thirty-five percent of the employer's active members who are eligible to vote filing with the board ballots indicating that they no longer wish to withdraw.

(III) If a resolution or a sufficient number of ballots is timely filed with the board pursuant to subparagraph (II) of this paragraph (a), the withdrawal shall be terminated, and the board shall return to the new hire benefits account any amounts transferred to the short-term investment account pursuant to subparagraph (I) of this paragraph (a). If no resolution or an insufficient number of ballots is timely filed, the withdrawal shall proceed in accordance with the provisions of this section.

(IV) The board shall prescribe the form of the ballot to be submitted by members indicating that they no longer wish to withdraw and any other rules ~~and regulations~~ necessary for the implementation of this subsection (4).

(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, the employer shall make an additional payment no later than ten working days after 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~~ SECTION 31-31-502.

(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)~~ SECTION 31-31-402 (4) until such amount is paid in full.

(6) (a) Members who are not vested under the statewide defined benefit plan and who are employed by an employer who 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~~ SECTION 31-31-502.

(b) (I) Members who are vested under the statewide defined benefit plan and who are employed by an employer who has filed a resolution of intent to withdraw from the statewide defined benefit plan may elect that, if the withdrawal becomes effective, their contributions remain with the statewide defined benefit plan by giving written notice to the association no later than the date established for completion of the member election provided in paragraph (c) of subsection (2) of this section;

(II) Members who have made such an election shall become inactive statewide defined benefit plan members entitled to vested benefits upon termination and attainment of vested retirement age;

(III) Members who have made such an election shall not be entitled to withdraw any amounts from their separate retirement account until they have terminated their current employment; and

(IV) If members who have made such an election 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~~ SECTIONS 31-31-803 AND 31-31-807.

(c) Members who do not elect to leave their contributions with the statewide defined benefit plan pursuant to paragraph (b) of this subsection (6) shall have their member contributions credited to the statewide money purchase pension plan as set forth in ~~section 31-30-1005.3~~ SECTION 31-31-502.

(7) The provisions of ~~section 31-30-1011 (1) (b)~~ SECTION 31-31-404 (1) (b) ~~which~~ THAT 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~~ THAT 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)~~ SECTION 31-31-403 (7).

**31-31-502. [Formerly 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~~ THAT 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)~~ SECTION 31-31-409 (1). The plan shall cover the members of those employers ~~which~~ THAT have withdrawn from the statewide defined benefit plan pursuant to ~~section 31-30-1003.1~~ SECTION 31-31-501.

(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~~ THAT have withdrawn from the statewide defined benefit plan pursuant to ~~section 31-30-1003.1~~ SECTION 31-31-501, including member and employer contributions and such amounts as are transferred pursuant to ~~section 31-30-1003.1~~ SECTION 31-31-501. 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)~~ SECTION 31-31-301 (1) (a);

(II) Option B, which is investment in a stock portfolio fund;

(III) Option C, which is investment in a bond portfolio fund; AND

(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)~~ SECTION 31-31-703 (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)~~ SECTION 31-31-501 (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~~ THAT is transferred to the fund, such amount to be calculated by multiplying the excess employer reserve times the proportion ~~which~~ THAT 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)~~ SECTION 31-31-402 (4).

(5) Except with respect to amendments necessary to comply with state and federal law, the board may amend the statewide 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 amendment, however, may increase the employer contribution rate above eight percent of the salary paid to each participating member.

(6) (a) Any employer who has established a local money purchase plan pursuant to ~~part 3, 4, 5, 6, or 10 of this article~~ PART 6 OF THIS ARTICLE OR ARTICLE 30.5 may apply to the board to cover the members of its local money purchase plan under the statewide money purchase plan. An application may be initiated by filing with the board a resolution adopted by the employer pursuant to paragraph (b) of this subsection (6) no less than six months prior to the proposed effective date of coverage under the statewide money purchase plan, unless a shorter waiting period is approved by the board. The effective date of coverage shall be the first day of the month following the waiting period.

(b) The employer's resolution applying for coverage under the statewide money purchase plan shall be adopted by the governing body of the employer and shall state the employer's intent to cover the members of its local money purchase plan under the statewide money purchase plan.

(c) Any application for coverage under the statewide money purchase plan shall be approved by at least sixty-five percent of all active members employed by the employer who are participating in the local money purchase plan at the time of the application.

(d) The board shall promulgate rules ~~and regulations~~ relating to standards for disclosure of all ramifications and procedures for obtaining the member approval described in paragraph (c) of this subsection (6). The board shall also promulgate rules ~~and regulations~~ relating to standards for granting an employer's application for participation in the statewide money purchase plan and for the submission of information to the board by the employer.

(e) An application for coverage under the statewide money purchase plan shall not be complete until the employer certifies to the board that:

(I) The employer's local money purchase plan meets the qualification requirements of section 401 (a) of the Internal Revenue Code of 1986 that are applicable to governmental plans;

(II) In connection with the employer's resolution pursuant to paragraph (b) of this subsection (6), the employer's governing body has adopted a resolution for complete or partial termination of the local money purchase plan in accordance with the terms of that plan and that:

(A) The termination resolution does not adversely affect the qualified status of the local money purchase plan; and

(B) The rights of all participants in the local money purchase plan who are affected by the termination to benefits accrued to the date of termination are nonforfeitable;

(III) All active and retired fire and police participants in the local money purchase plan will become participants in the statewide money purchase plan;

(IV) As directed by the board, the employer will transfer or cause to be transferred to the statewide money purchase plan all assets of the local money purchase plan that are attributable to the accrued benefits of the transferred participants;

(V) All employer and employee contributions required to be made to the local money purchase plan as of the date of termination have been paid;

(VI) Participants in the local money purchase plan will not incur a reduction in their respective accrued benefits, determined as of the date of transfer, as a result of their transfer to the statewide money purchase plan; and

(VII) The employer agrees to participate in the statewide money purchase plan and to be bound by the terms of the plan and the decisions and actions of the board with respect to the plan.

#### PART 6

#### WITHDRAWN LOCAL ALTERNATIVE PENSION PLANS

**31-31-601. [Formerly 31-30-1003 (2) (b)] Withdrawn local alternative pension plans - creation - administration.** ~~(2) (b) (1)~~ (1) (a) Any employer may withdraw from the statewide defined benefit plan, and any employer may subsequently reenter the statewide defined benefit plan, by filing with the board a resolution adopted by the employer pursuant to ~~subparagraph (H) of this paragraph~~ ~~(b)~~ PARAGRAPH (c) OF THIS SUBSECTION (1), 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~~ SECTION 31-31-501.

~~(H)~~ (b) An employer that withdraws from the statewide defined benefit plan prior to January 2, 1988, as provided in this ~~paragraph (b)~~ SUBSECTION (1) shall establish and maintain a locally administered and financed alternative pension plan subject to the following:

~~(A)~~ (I) If the plan is a defined benefit plan, in whole or part, such plan shall be financed by contributions determined by the board on the basis of the entry age-normal cost method and shall include the payment required to amortize the unfunded accrued liability over forty years from January 1, 1979; and

~~(B)~~ (II) The members of such plan hired before, on, or after April 7, 1978, shall be covered by the provisions of ~~sections 31-30-1005 (2), 31-30-1007, and 31-30-1008~~ SECTIONS 31-31-803 AND 31-31-807 in lieu of any other defined disability and preretirement death benefits.

~~(H)~~ (c) Any reentry of both the withdrawal and the alternative pension plan, together with any amendments thereto, shall be approved by at least sixty-five percent of all active members. No amendment of an alternative pension plan may be adopted ~~which~~ THAT would adversely affect the pension benefits of retired members. Notwithstanding any other provision of this ~~paragraph (b)~~ SUBSECTION (1), however, an alternative pension plan, with the approval of the employer and sixty-five percent of the active members of the plan, may be amended so as to change the nature of the plan from a defined benefit plan to a money purchase plan or from a money purchase plan to a defined benefit plan.

~~(V)~~ (d) This ~~paragraph (b)~~ SUBSECTION (1) shall not apply to any employer first established after January 1, 1980.

~~(V)~~~~(A)~~ (2) (a) Within six months from the effective date of withdrawal, the association shall refund to the employer all employer and member contributions in its custody, together with the net earnings of such funds. For the purposes of this ~~subparagraph (V)~~ SUBSECTION (2), "net earnings" means actual earnings, less actual administrative expenses and expenses connected with the withdrawal. The determination of net earnings shall be made by the board.

~~(B)~~ (b) The refunded moneys shall be used only as contributions to the alternative pension plan.

~~(E)~~ (c) Upon the effective date of withdrawal, the employer is liable for the payment of all benefits then vested under the provisions of ~~section 31-30-1006~~ SECTION 31-31-403.

~~(D)~~ (d) The provisions of this ~~subparagraph (V)~~ SUBSECTION (2) apply to all employers whose withdrawals are effective on or after January 1, 1981.

**31-31-602. Withdrawn local alternative pension plans - investment authority.** ANY LOCALLY ADMINISTERED AND FINANCED ALTERNATIVE PENSION PLAN FUND ESTABLISHED PURSUANT TO THIS PART 6 MAY BE INVESTED AS PROVIDED IN SECTION 31-30.5-803.

## AFFILIATION OF PLANS WITH THE ASSOCIATION

**31-31-701. [Formerly 31-30-1003 (3)] Affiliation by old hire pension plans.** ~~(3)~~ (a) (1) Any employer may elect affiliation with the association relating to ~~a local~~ AN OLD HIRE FIRE OR POLICE PENSION plan ~~which~~ THAT it has established pursuant to ~~part 3, 4, 5, or 6~~ ARTICLE 30.5 of this ~~article~~ TITLE by filing with the board a resolution adopted no less than nine months prior to the effective date of affiliation, unless a shorter waiting period is approved by the board. The effective date of affiliation shall be January 1 of the year following the waiting period.

~~(b)~~ (2) Each OLD HIRE 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~~ OLD HIRE 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~~ PART 4 OF THIS ARTICLE. In the event ~~a~~ AN OLD HIRE member hired by an affiliating employer ~~before April 8, 1978;~~ fails to make such an election for any reason, the OLD HIRE member shall be deemed to have elected to remain covered under the provisions of the ~~local~~ OLD HIRE plan in effect on January 1, 1979. ~~A~~ AN OLD HIRE member who elects to become covered under the statewide defined benefit plan established by ~~this part 10~~ PART 4 OF THIS ARTICLE shall be deemed to have waived all rights to benefits under the ~~local~~ OLD HIRE plan but shall receive full credit for all service credited under the ~~local~~ OLD HIRE plan, and ~~a~~ AN OLD HIRE member electing to remain covered under the ~~local~~ OLD HIRE plan shall not be governed by the provisions of ~~this part 10~~ PART 4 OF THIS ARTICLE 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.~~

~~(c)~~ (3) On the effective date of affiliation pursuant to this ~~subsection (3)~~ SECTION, the assets of the ~~local~~ OLD HIRE pension plan shall be transferred to the fund created by ~~section 31-30-1012~~ SECTION 31-31-301. Such transfer shall be at the market value of such assets at the close of business on date of affiliation. Upon affiliation and the transfer of assets to the fund, benefits due pursuant to the ~~former~~ ~~local~~ OLD HIRE plan shall be paid by the association.

~~(d)~~ (4) An eligible employer may request OF THE BOARD, prior to filing a resolution of affiliation, ~~of the board~~ an estimate of the employer's contribution rate necessary to comply with the contribution requirements established by ~~this part 10~~ SUBSECTION (5) OF THIS SECTION.

~~(e)~~ (5) An employer that affiliates pursuant to this ~~subsection (3)~~ SECTION ~~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 OLD HIRE members hired prior to April 8, 1978, over a period of forty years from January 1, 1982. ~~For any state-assisted policemen's or firefighters' 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 (3.5):~~

**31-31-702. [Formerly 31-30-1003.3 (10)] Affiliation by local money purchase plans.** ~~(10)~~ The board is authorized to enter into agreements with employers establishing money purchase pension plans pursuant to this ~~section or part 3, 4, 5, or 6 of this article or this part 10~~ ARTICLE 30.5 OF THIS TITLE for the purpose of having the board administer such plans and manage the funds of such plans for investment pursuant to ~~section 31-30-1012.3~~ SECTION 31-31-703.

**31-31-703. [Formerly 31-30-1012.3] Money purchase plan benefit fund - creation - management.** (1) (a) There is hereby created the fire and police members' money purchase plan benefit fund ~~which~~ THAT shall consist of the assets of money purchase plan funds administered and managed by the board pursuant to ~~section 31-30-1003.3 (10)~~ SECTION 31-31-702. The board shall keep an accurate account of each such individual fund. In addition, the board shall keep an accurate account of each member's separate account in any such individual fund. The board may create, and is authorized to offer to each member of an affiliated 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)~~ SECTION 31-31-301;

(II) Option B, which is investment in a stock portfolio fund;

(III) Option C, which is investment in a bond portfolio fund; AND

(IV) Option D, which is investment in a guaranteed fund.

(b) The board shall adopt rules ~~and regulations~~ governing the calculation and allocation of earnings and losses under the various investment options listed in paragraph (a) of this subsection (1) ~~which~~ THAT it 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 its administration and management of the fund created pursuant to this section.

(2) The board shall be the trustee of the fund and, subject to the members' allocation of moneys in their accounts to the options set forth in subsection (1) of this section, shall have full and unrestricted discretionary power and authority to invest and reinvest such portions of the fund as in its judgment may not be immediately required for the payment of refunds or benefits. In exercising its discretionary authority with respect to the acquisition or disposition of any investments, the board shall be governed by the standard for investments prescribed in section 15-1-304, C.R.S. The board may, by resolution, delegate to its ~~secretary~~ EXECUTIVE DIRECTOR, appointed pursuant to ~~section 31-30-1004 (3) (b)~~ SECTION 31-31-201 (3) (b), the investment authority created by this subsection (2). The board shall not delegate to its ~~secretary~~ EXECUTIVE DIRECTOR the authority to invest or reinvest more than five percent of the market value of the assets of the fund between regularly scheduled meetings of the board.

(3) The board shall designate one or more financial institutions as custodians of the fund. All moneys paid or transmitted to the custodian shall be credited to appropriate accounts in the fund, and the custodian shall maintain a current inventory of all investments of the fund.

(4) Disbursements from the fund shall be made, subject to the approval of the board, only for payment of the expenses of the association in connection with the administration of the fund, refunds to the members, benefits, and investment purposes.

(5) The board shall purchase and acquire and hold for the benefit of the fund such investments in such amounts as may from time to time be directed by the board in writing. Any such investments shall be disposed of by the board when it determines such disposition to be necessary to provide money for payment of refunds or pension benefits or in order to reinvest the proceeds of such disposition in other investments determined by the board to be in the best interests of the fund. Notwithstanding any other provision of this section, the board may employ or contract with investment counselors to manage 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. The 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.

(6) All transactions involving the purchase and sale of investments authorized in this section shall be effected on behalf of the association. To facilitate sale and exchange transactions, securities belonging to the association may be registered in the name of nominees in the discretion of the board and in accordance with standard business practices. All such nominees shall be bonded in such amounts as may be determined to be advisable by the board.

(7) The board shall submit an annual audit of the fund to the general assembly and to each employer that has affiliated its money purchase plan fund pursuant to ~~section 31-30-1003.3(9)~~ SECTION 31-31-702. Each employer shall make the audit and study available for review by its members.

**31-31-704. [Formerly 31-30-1003.5] Optional affiliation by social security employers.** (1) Notwithstanding the exemption provided in ~~section 31-30-1003(2)(a)(f)~~ SECTION 31-31-401 (1) (a), any employer ~~which~~ THAT covers members under the federal "Social Security Act", as amended, may elect affiliation with the association, either as to COVERAGE UNDER THE STATEWIDE death and disability PLAN or as to retirement UNDER THE STATEWIDE DEFINED BENEFIT PLAN, or as to both, by filing with the board a resolution of the governing body of such employer, but any such affiliation shall either exclude past service credit or include past service credit funded by contribution levels established by the board pursuant to subsection (6) of this section. The employer may make the election to exclude past service credit, but only if such election does not impair any vested rights of members.

(2) The board shall establish rules ~~and regulations~~ as to the procedure for affiliation pursuant to this section. An employer eligible for such affiliation may request of the board, prior to filing a resolution of affiliation, an estimate of the contribution rate necessary to comply with the contribution requirements established by this ~~part 10~~ ARTICLE.

(3) If an employer ~~which~~ THAT elects to affiliate as to retirement pursuant to this section provides any local retirement pension plan in addition to social security, each member employed by such employer shall elect, not later than sixty days after affiliation, either to remain covered under the retirement provisions of such

local plan or to become covered under the retirement provisions of the statewide DEFINED BENEFIT plan established by ~~this part 10~~ PART 4 OF THIS ARTICLE. If a member fails to make such an election for any reason, said member shall be deemed to have elected to remain covered under the retirement provisions of the local plan. A member who elects to become covered under the retirement provisions of the statewide DEFINED BENEFIT plan established by ~~this part 10~~ PART 4 OF THIS ARTICLE shall be deemed to have waived all rights to retirement 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~~ THE STATEWIDE DEFINED BENEFIT PLAN relating to defined retirement benefits.

(4) Notwithstanding the provisions of subsection (3) of this section, if an employer ~~which~~ THAT 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~~ PART 4 OF THIS ARTICLE. All members hired by an employer ~~which~~ THAT 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~~ PART 4 OF THIS ARTICLE. All members of an employer ~~which~~ THAT elects to affiliate as to disability pursuant to this section shall be covered under the STATEWIDE death and disability provisions of the statewide defined benefit plan established by ~~this part 10~~ PART 8 OF THIS ARTICLE.

(5) Benefits provided pursuant to the statewide ~~retirement~~ DEFINED BENEFIT and STATEWIDE death and disability plans established by this ~~part 10~~ ARTICLE to members of employers ~~which~~ THAT have affiliated pursuant to this section shall be reduced by the pro rata amount of any social security benefit received by the member attributable to the member's quarters of social security coverage derived from employment as a member.

(6) The board shall set appropriate levels of employer and employee contributions for employers ~~which~~ THAT affiliate pursuant to this section, substantially in the manner provided in ~~sections 31-30-1003 (3) (e) and 31-30-1013~~ (3) SECTIONS 31-31-402 (3) AND 31-31-701 (5), and taking into consideration the reduction in benefits provided in subsection (5) of this section.

(7) The provisions of ~~section 31-30-1003 (3) (e)~~ SECTION 31-31-701 (3) for transfer of ~~local~~ OLD HIRE pension plan assets shall apply to an employer ~~which~~ THAT affiliates as to retirement pursuant to this section to the extent that it has such assets. The provisions of ~~section 31-30-1003 (3) (e)~~ SECTION 31-31-701 (3) for payment of benefits of a former ~~local~~ OLD HIRE plan shall apply to an employer ~~which~~ THAT affiliates as to retirement pursuant to this section to the extent that it has a ~~local~~ AN OLD HIRE retirement pension plan other than social security.

(8) Nothing contained in this section shall affect the ability of employers to terminate social security coverage or the procedures for such termination.

~~(9) An employer which provides social security coverage and which affiliates pursuant to this section shall be eligible for state contributions on the basis~~

of accrued unfunded liabilities attributable to a plan established by part 3, 4, 5, or 6 of this article, as provided in section 31-30-1014 (4).

**31-31-705. [Formerly 31-30-1005 (1) (k)] Affiliation by volunteer pension plans.** ~~(+)~~~~(k)~~ THE BOARD IS AUTHORIZED TO make agreements with governing bodies that provide pension plans for volunteer firefighters to administer such plans and manage the funds of such plans for investment.

**31-31-706. Affiliation by exempt defined benefit pension plans.** AT THE REQUEST OF ANY LOCAL EMPLOYER HAVING AN EXEMPT DEFINED BENEFIT PENSION PLAN, THE BOARD IS AUTHORIZED TO MAKE AN AGREEMENT WITH THE EMPLOYER'S GOVERNING BODY TO MANAGE SUCH EMPLOYER'S EXEMPT DEFINED BENEFIT PENSION PLAN FUND FOR INVESTMENT.

## PART 8 DISABILITY AND SURVIVOR BENEFITS

**31-31-801. [Formerly 31-30-1002 (1.5), (3), (6), and (7)] Definitions.** As used in this ~~part 10~~ PART 8, unless the context otherwise requires:

~~(1.5)~~ (1) "Assigned duties" means those specific tasks or jobs designated by the employer for a particular position within a job classification. The term does not include the duties of a member's rank or grade ~~which~~ THAT the member is not actually required to perform in the position which ~~he~~ THE MEMBER occupies.

~~(2)~~ (2) "Dependent child" means an unmarried child under the age of nineteen or, if such child is enrolled as a full-time student at an accredited institution of higher education, under the age of twenty-three and includes, if the board so determines, any child of whatever age who is so mentally or physically incapacitated that ~~he~~ THE CHILD cannot provide for ~~himself~~ THE CHILD'S OWN CARE. The term also includes a child who is conceived but unborn at the date of the member's death or the date of disability, whichever applies. Any applicable increase in benefits will occur upon birth.

~~(6)~~ (3) "Occupational disability" means a disability resulting in an incapacity to perform assigned duties and expected, with reasonable medical probability, to exist for at least one year.

~~(7)~~ (4) "Total disability" means inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment ~~which~~ ~~can~~ THAT MAY be expected to result in death or ~~which~~ THAT has lasted or ~~can~~ MAY be expected to last for a period of not less than twelve months.

**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:

(a) ANY MEMBER WHOSE EMPLOYER COVERS THEM UNDER THE FEDERAL "SOCIAL SECURITY ACT"; SHALL BE EXEMPT FROM THE PROVISIONS OF THIS PART 10 EXCEPT THE PROVISIONS OF SECTION 31-30-1005 (3).

(b) **[Formerly 31-30-1003 (2) (a) (II) and (2) (a) (III)]** ~~(H) Any MEMBERS WHOSE employer which had established a AN EXEMPT DEFINED BENEFIT pension plan except money purchase plans established on or before December 1, 1978, in accordance with section 31-30-325, 31-30-417, 31-30-522, or 31-30-621 PART 8 OF ARTICLE 30.5 OF THIS TITLE, on January 1, 1980, shall be exempt from the provisions of sections 31-30-1006 to 31-30-1008 but shall be otherwise subject to the provisions of this part 10 unless an employer with a defined benefit plan enacted under the provisions of section 31-30-325, 31-30-417, 31-30-522, or 31-30-621 irrevocably elects not later than October 1, 1983, to be subject to the provisions of sections 31-30-1007 and 31-30-1008 THIS PART 8; AND~~

~~(HH) (c) Any MEMBERS WHOSE employer which has HAD established a money purchase plan on or before December 1, 1978, in accordance with the provisions of section 31-30-325, 31-30-417, 31-30-522, or 31-30-621 PART 8 OF ARTICLE 30.5 OF THIS TITLE; shall be exempt from the provisions of sections 31-30-1006 to 31-30-1008 but shall be otherwise subject to the provisions of this part 10; 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 and with the consent of the members' employer, elect to be covered by the provisions of sections 31-30-1007 and 31-30-1008 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 sections 31-30-1007 and 31-30-1008 THIS PART 8 shall be covered under said sections 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 31-30-1007 (6) (e) SECTION 31-31-810 (1) (c) and, for purposes of sections 31-30-1007 and 31-30-1008 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 sections 31-30-1007 and 31-30-1008 THIS PART 8. Once a member has elected the coverage of sections 31-30-1007 and 31-30-1008 THIS PART 8, his THE MEMBER'S election shall be irrevocable.~~

**31-31-803. [Formerly 31-30-1007 (1), (2) (a), (2.5), (4), and (5)] Retirement for disability.** (1) Any member hired before, on, or after April 7, 1978, who is not eligible for the normal retirement pension described in ~~section 31-30-1006~~ SECTION 31-31-403 or a local defined benefit retirement pension selected pursuant to ~~section 31-30-1003 (3) (b) or 31-30-1003.5 (3)~~ SECTION 31-31-704 (3) or provided pursuant to part 3, 4, 5, or 6 of this article 30.5 OF THIS TITLE, whichever is applicable, and who becomes totally disabled shall be retired from active service for disability and shall be eligible to receive the disability benefit provided by this subsection (1). The annual disability benefit for total disability for such member shall be forty percent of the annual base salary paid to such member immediately preceding retirement for disability, which shall be increased by:

(a) Ten percent of ~~said~~ THE annual base salary if such member had a spouse at the time of becoming totally disabled, for so long as such spouse survives and is married to such member or legally entitled to maintenance from such member;

(b) Ten percent of ~~said~~ THE annual base salary if such member has any dependent children.

~~(a)~~ (2) Any member who is not eligible for the normal retirement pension described in ~~section 31-30-1006~~ SECTION 31-31-403 or a local defined benefit retirement pension selected pursuant to ~~section 31-30-1003 (3) (b) or 31-30-1003.5~~ ~~(3)~~ SECTION 31-31-704 (3) or provided pursuant to ~~part 3, 4, 5, or 6 of this article~~ 30.5 OF THIS TITLE, whichever is applicable, and who becomes occupationally disabled shall be retired from active service for such time as ~~said~~ THE occupational disability continues and shall be eligible to receive the disability benefit provided by this subsection (2). The annual disability benefit for occupational disability for such member shall be thirty percent of the annual base salary paid to such member immediately preceding retirement for disability, which shall be increased by:

~~(H)~~ (a) Ten percent of ~~said~~ THE annual base salary if such member had a spouse at the time of becoming occupationally disabled, for so long as such spouse survives and is married to such member or is legally entitled to maintenance from such member;

~~(H)~~ (b) Ten percent of ~~said~~ THE annual base salary if such member has any dependent children.

~~(2.5)~~ (3) (a) Notwithstanding any other provision of this section, no benefits shall be payable for any disability resulting in whole or in part from:

(I) Addiction to a controlled substance, the use of which is prohibited in article 18 of title 18, C.R.S.;

(II) Engaging in any act for which the member has been convicted of a felony; OR

(III) An intentionally self-inflicted injury.

(b) For the purposes of this ~~subsection (2.5)~~ SUBSECTION (3), the terms "addiction" and "controlled substance" shall have the same meanings as such terms have in part 3 of article 22 of title 12, C.R.S.

(4) (a) The determination of disability, whether occupational or total, shall be made by the board, and the board shall consider ~~a report~~ REPORTS to be made by a panel of three physicians who shall be appointed by the board upon the recommendation of a medical advisor with whom the board shall contract to provide advisory services. The board shall not make a determination of disability unless two of the three physicians examining the applicant agree that a disability exists, but the board shall not be bound by the physicians' determination that a disability exists.

(b) The board shall have the authority to investigate claims for disability retirement benefits at the time of initial application for benefits or subsequent to an award of benefits in order to determine eligibility or continuing eligibility for such benefits. The board shall appoint such investigators and other personnel as may be necessary to carry out this function. No investigation of a member who has been awarded a disability retirement shall be pursued if more than five years has elapsed since the date of the award.

(c) If the board determines that an applicant for retirement for disability is

not disabled and the applicant is on sick leave, disability leave, or other type of leave of absence, is serving in a temporary position pending the determination of an application, or has been terminated from employment by the employer on the basis of an alleged disability, the employer shall reinstate the applicant to active service in the same position the applicant held prior to the commencement of such leave, assignment to a temporary position, or termination. If the employer refuses to reinstate the applicant to ~~his~~ THE APPLICANT'S prior position, the employer shall thereafter pay benefits to the applicant as if the applicant had been determined occupationally disabled by the board. The employer shall continue to pay such benefits until the applicant is reinstated to ~~his~~ THE APPLICANT'S prior position or declines an offer of reinstatement.

(5) (a) Any member who is awarded a disability pension under this section shall be eligible to receive the applicable normal disability pension provided in this section or to make an election for a reduced pension in the manner provided in ~~section 31-30-1006 (4)~~ SECTION 31-31-403 (5). All provisions of ~~section 31-30-1006 (4) (a), (4) (c), and (4) (d)~~ SECTION 31-31-403 (5) (a), (5) (c), AND (5) (d) shall apply to ~~said~~ THE member; except that the benefits used to calculate the reduced benefits shall be the disability benefit provided to the member under this section rather than the retirement benefit provided in ~~section 31-30-1006~~ SECTION 31-31-403. A member shall be considered to have elected option 1 if ~~he~~ THE MEMBER is awarded a disability pension pursuant to this section, is survived by a spouse or dependent child, and dies before making the election provided in this paragraph (a). The joint disability benefits provided in this section shall be calculated as the actuarial equivalent of the applicable normal disability pension otherwise payable as provided in this section.

(b) (I) IF, AFTER MAKING THE ELECTION OF A NORMAL DISABILITY PENSION, A SINGLE MEMBER SUBSEQUENTLY MARRIES, THE MEMBER SHALL BE ELIGIBLE TO CHANGE THE MEMBER'S ORIGINAL ELECTION TO TAKE A REDUCED PENSION IN THE SAME MANNER AS THE ORIGINAL ELECTION AUTHORIZED IN PARAGRAPH (a) OF THIS SUBSECTION (5).

(II) THE NEWLY ELECTED PENSION SHALL BE RECALCULATED AS THE ACTUARIAL EQUIVALENT OF THE REMAINDER OF THE ORIGINAL PENSION FOR WHICH THE MEMBER WOULD OTHERWISE HAVE BEEN ELIGIBLE IF THE MEMBER HAD NOT CHANGED THE ORIGINAL ELECTION.

(6) THE BENEFITS ESTABLISHED PURSUANT TO THIS SECTION ARE ELIGIBLE FOR ANNUAL COST OF LIVING ADJUSTMENTS AS PERMITTED IN SECTION 31-31-407.

**31-31-804. Reduction of disability benefits.** (1) (a) [Formerly **31-30-1007 (3)**] ~~(3) (a)~~ If a member has any earned income other than that provided by a disability benefit award under ~~subsection (1) or subsection (2) of this section~~ SECTION 31-31-803 and, if applicable, a workers' compensation award that provides a total income greater than an amount equal to one hundred percent of the base salary provided to an active member of the same rank at which the member retired, the disability benefit shall be reduced by twenty-five percent of the additional earned income. In calculating total income for purposes of this paragraph (a), the amount includable with respect to money purchase plan benefits which a member is eligible to receive shall be the same amount as calculated pursuant to ~~subsections (7), (8), and~~

~~(9)~~ SUBSECTION (2) of this section. ~~as applicable.~~

(b) NOTWITHSTANDING any provision of paragraph (a) of this ~~subsection (3)~~ SUBSECTION (1), ~~to the contrary notwithstanding~~, any disability benefit provided pursuant to ~~subsection (1) or subsection (2) of this section~~ SECTION 31-31-803 shall be reduced by the pro rata amount of any social security benefit received by the member attributable to the member's quarters of social security coverage derived from employment as a member.

(c) Any member receiving a disability benefit pursuant to ~~subsection (1) or subsection (2) of this section~~ SECTION 31-31-803 shall file an annual report concerning any additional earned income. If such member knowingly fails to file such report or files a fraudulent report, the disability benefit shall be discontinued.

(2) [Formerly 31-30-1007 (9) (combines 31-30-1007 (7), (8), and (9))] ~~(9)~~ The benefits payable under ~~this section~~ SECTION 31-31-803 to any member, who at the time of the award of such benefits is a member of a money purchase plan pursuant to ~~section 31-30-1003.3~~ THIS ARTICLE OR ARTICLE 30.5 OF THIS TITLE, INCLUDING ANY DEPARTMENT CHIEF, WHO AT THE TIME OF THE AWARD OF SUCH BENEFITS HAS BEEN EXEMPTED FROM THE STATEWIDE DEFINED BENEFIT PLAN AS PERMITTED BY SECTION 31-31-401 (4), shall be reduced by an amount ~~which~~ THAT is the actuarial equivalent of the benefits such member receives from any such 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)~~ SECTION 31-31-402 (1) AND (2) as is required for benefits under ~~section 31-30-1006~~ SECTION 31-31-403.

**31-31-805. Change in disability status - reexamination.** (1) [Formerly 31-30-1007 (1.5)] ~~(1.5)~~ At any time that a total disability ceases to exist, based upon periodic reexamination as may be required by the board or based upon other evidence of ability to engage in substantial gainful activity, a member retired for such disability shall be declared occupationally disabled, and the benefits provided by ~~subsection (1) of this section~~ SECTION 31-31-803 (1) shall be reduced to the level provided in ~~paragraph (a) of subsection (2) of this section~~ SECTION 31-31-803 (2).

(2) [Formerly 31-30-1007 (2) (b)] ~~(2) (b) (1)~~ (a) At any time that an occupational disability ceases to exist, based upon periodic reexamination as may be required by the board, a member retired for such disability may be restored to active service, and the benefits provided by ~~this subsection (2)~~ SECTION 31-31-803 (2) shall be discontinued. ~~Said~~ THE member shall be restored to active service by ~~his~~ THE MEMBER'S former employer if a vacancy exists in the same position ~~he~~ THE MEMBER held prior to retirement, or if there is a position of equal base pay available, or if the member agrees to accept another available position ~~which~~ THAT may not be the same or of equal base pay to ~~his~~ THE MEMBER'S former position.

~~(b)~~ (b) In addition, if the position to which the member will be restored requires, as a matter of state law, that the member maintain any type of state certification, the employer need not restore the member to such position if the member does not have the necessary certification or the member's certification has otherwise

lapsed, expired, or been revoked. The employer, however, must afford the member an opportunity to attain certification, recertification, or reactivation of an existing certification and must hold open any position ~~which~~ THAT the member has agreed to accept pursuant to this ~~paragraph (b)~~ SUBSECTION (2) for a period not to exceed one year. The board is directed to evaluate the impact of this requirement on employers of association members. The one-year period may extend beyond the five-year limitation set forth in ~~subparagraph (VI) of this paragraph (b)~~ PARAGRAPH (f) OF THIS SUBSECTION (2), as long as the opening occurs within the five-year period. Disability benefits will be continued during any period, not to exceed one year, that the member is attempting to attain certification, recertification, or reactivation.

~~(HH)~~ (c) If, at the time of a board finding that a member's occupational disability has ceased to exist, there is no opening in the same position the member held prior to retirement or one of equal base pay and there is no opening in a position of lesser base pay ~~which~~ THAT the member agrees to accept, the board may order the member to proceed with any necessary training in order to attain, reinstate, or reactivate any certification required for the position from which the member retired. Disability benefits shall be continued during the training period up to a maximum of one year.

~~(IV)~~ (d) If the member refuses to take the steps necessary to attain certification, recertification, or reactivation as required by ~~subparagraphs (H) and (HH) of this paragraph (b)~~ PARAGRAPH (b) AND (c) OF THIS SUBSECTION (2), or if at the end of the one-year limitation on attaining certification, recertification, or reactivation the member has not attained the necessary certification, recertification, or reactivation, disability benefits shall be discontinued, and the employer shall be relieved of further obligations pursuant to this ~~paragraph (b)~~ SUBSECTION (2).

~~(V)~~ (e) If a member refuses to accept the same or a position of equal base pay, the benefits provided by ~~this subsection (2)~~ SECTION 31-31-803 (2) shall be discontinued, but a member shall not lose benefits if there is no such vacancy or if ~~he~~ THE MEMBER refuses to accept a position ~~which~~ THAT is not the same or of equal base pay to ~~his~~ THE MEMBER'S former position, or if the employer refuses to restore ~~him~~ THE MEMBER to active service, except as provided pursuant to ~~subparagraph (H) of this paragraph (b)~~ PARAGRAPH (b) OF THIS SUBSECTION (2).

~~(VI)~~ (f) If at least two members of the three-member physician panel examining the member agree that an occupational disability ceases to exist, ~~and~~ if the board determines that such disability ceases to exist, and if no appropriate vacancy is available at that time, the member shall have the first right of refusal to fill such a vacancy if it occurs within five years from the date of original disablement. In the event an occupational disability is based on a medical determination of mental impairment or disease, all three members of the physician panel must agree, and the board must determine, that the occupational disability ceases to exist before the member is granted such first right of refusal.

~~(VII)~~ (g) At least thirty days prior to making its determination, the board shall provide written notice to the employer and member of the agreement of the appropriate number of physicians and of the opportunity for a hearing, upon request of the employer or member, before the board. If a hearing is requested, the board shall provide the employer with copies of the medical reports prepared by the

physician panel with respect to any examination or reexamination of the member. Neither the employer, the agents of the employer, including any physician retained to review such reports, nor the association shall release such reports to any other person except as otherwise allowed pursuant to section 24-72-204 (3) (a) (I), C.R.S.

~~(VHH)~~ (h) If the member refuses a vacancy in the same position ~~he~~ THE MEMBER held prior to retirement or in a position of equal base pay to ~~his~~ THE MEMBER'S former position, the benefits provided by ~~this subsection (2)~~ SECTION 31-31-803 (2) shall be discontinued. Except as otherwise provided pursuant to this ~~paragraph (b)~~ SUBSECTION (2), if the employer refuses to allow a member who exercises such first right of refusal to fill the vacancy, the employer shall thereafter pay the cost of the benefits provided by ~~this subsection (2)~~ SECTION 31-31-803 (2).

(3) ~~[Formerly 31-30-1007 (2) (c)]~~ ~~(e)~~ Within five years from the date of a board finding of occupational disability pursuant to ~~subsection (1.5) of this section~~ ~~or paragraph (a) of this subsection (2)~~ SUBSECTION (1) OF THIS SECTION OR SECTION 31-31-803 (2), a member retired for such disability may be declared totally disabled based upon periodic reexamination as ordered by the board in its discretion. If the member is declared totally disabled, the benefits provided by ~~paragraph (a) of this subsection (2)~~ SECTION 31-31-803 (2) shall be increased to the level provided in ~~subsection (1) of this section~~ SECTION 31-31-803 (1).

**31-31-806. [Formerly 31-30-1007 (3.5)] Disqualification upon reemployment.** ~~(3.5)~~ If, subsequent to disability benefits being awarded to a member pursuant to the provisions of ~~this section~~ SECTION 31-31-803 but prior to a decision of the board that an occupational disability ceases to exist pursuant to ~~paragraph (b) of subsection (2) of this section~~ SECTION 31-31-805 (2), a member is employed or reemployed in this state or any other jurisdiction, pursuant to either an agreement or court order, in a full-time salaried position ~~which~~ THAT normally involves working at least one thousand six hundred hours in any given calendar year and the duties of which are directly involved with the provision of police or fire protection as determined by the board, the benefits provided pursuant to ~~this section~~ SECTION 31-31-803 shall be discontinued. Any application for retirement for disability made by the member after such appointment or reinstatement shall be treated in all respects as a new application.

**31-31-807. [Formerly 31-30-1008 (1)] Death of member - survivor benefits.** (1) If a member who is not eligible for the normal retirement pension described in ~~section 31-30-1006~~ SECTION 31-31-403 dies while in active service and leaves a surviving spouse or dependent children, or both, one of the following survivor benefits shall be paid, unless the member is eligible for a normal retirement pension under ~~a local defined benefit~~ AN OLD HIRE pension plan established pursuant to ~~part 3, 4, 5, or 6 of this article~~ ARTICLE 30.5 OF THIS TITLE ~~which~~ THAT provides for postretirement survivor benefits to a spouse and dependent children in the event the member dies in active service while eligible for normal retirement:

(a) When there is a surviving spouse and no dependent children, the monthly benefit shall be twenty-five percent of the monthly base salary paid to such member immediately preceding death plus one-half of one percent of such salary for each year of the member's active service in excess of twenty-five years, but such benefit shall not exceed thirty-five percent of such salary.

(b) When there is a surviving spouse and one dependent child, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

(c) When there is a surviving spouse and two or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

(d) When there is no surviving spouse and three or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

(e) When there is no surviving spouse and two dependent children, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

(f) When there is no surviving spouse and one dependent child, the monthly benefit shall be twenty-five percent of the monthly base salary paid to such member immediately preceding death.

**31-31-808. [Formerly 31-30-1008 (4) (combines 31-30-1008 (3) and (4))] Reduction of survivor benefits.** ~~(4)~~ The benefits payable under ~~this section~~ SECTION 31-31-807 to the surviving spouse and dependent children of any ~~department~~ chief MEMBER, who at the time of ~~his~~ THE MEMBER'S death ~~had exempted himself from the provisions of this part 10 pursuant to section 31-30-1003 (7) and~~ was a member of ~~an alternative pension~~ A MONEY PURCHASE plan ESTABLISHED UNDER THIS ARTICLE OR ARTICLE 30.5 OF THIS TITLE, INCLUDING ANY DEPARTMENT CHIEF, WHO AT THE TIME OF THE CHIEF'S DEATH HAD BEEN EXEMPTED FROM THE STATEWIDE DEFINED BENEFIT PLAN AS PERMITTED BY SECTION 31-31-401 (4), shall be reduced by an amount ~~which~~ THAT is the actuarial equivalent of the benefits such surviving spouse and dependent children receive from ~~any such alternative pension~~ THE MONEY PURCHASE plan, whether the benefits received from the ~~pension~~ MONEY PURCHASE plan are paid on a periodic basis or in a lump sum. No such reduction shall exceed the actuarial equivalent of ~~pension~~ 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)~~ SECTION 31-31-402 (1) AND (2) as are required for benefits under ~~section 31-30-1006~~ SECTION 31-31-403.

**31-31-809. [Formerly 31-30-1009] Termination of benefits.** Any benefit provided in accordance with this ~~part 10~~ PART 8 to a surviving spouse or dependent child shall terminate upon the death or remarriage of the surviving spouse and upon the death, marriage, or termination of dependency of any dependent child.

**31-31-810. Employer liability - statewide standard health history form.**  
(1) **[Formerly 31-30-1007 (6)]** ~~(6)~~ (a) The employer of a member shall be liable for the total payment of benefits awarded under this ~~section~~ PART 8 if the board determines that:

(I) The member's occupational or total disability existed at the commencement of ~~his~~ employment by the employer, or the occupational or total disability is the proximate consequence or result of a medical condition that existed

at the commencement of employment by the employer, and such employment commenced on or after September 1, 1989;

(II) The employment was not ordered by a court; and

(III) The employer failed to obtain and file the health form required by paragraph (c) of this ~~subsection (6)~~ SUBSECTION (1).

(b) The board shall enforce a claim for repayment against the employer by either increasing the contribution of the employer under ~~section 31-30-1013 (2)~~ SECTION 31-31-402 (2) or by the commencement and prosecution of a civil action. The choice of remedies shall be in the sole discretion of the board.

(c) (I) Every member whose employment commences on or after September 1, 1989, shall complete a health history on the statewide standard health history form, described in subparagraph (III) of this paragraph (c).

(II) Every employer of a member who commences employment on or after September 1, 1989, shall furnish the statewide standard health history form to the prospective member and shall require its completion by the prospective member before allowing ~~him~~ THE MEMBER to enter upon employment. The completed form shall be filed with the fire and police pension association by the employer within sixty days from commencement of employment.

(III) Not later than July 1, 1989, the board shall adopt, pursuant to the authority granted it by ~~section 31-30-1005 (1) (j)~~ SECTION 31-31-202 (1) (j), a statewide standard health history form. The board shall consult with its medical advisor in the preparation of the form. Copies of the form shall be delivered to all employers not later than August 1, 1989. The board may revise the form from time to time and shall deliver revised forms to all employers not later than thirty days prior to the effective date of use of such revised form.

(IV) Any member who fraudulently conceals any material fact concerning ~~his~~ health history when completing the form may be disqualified from receiving an award of disability benefits under this section if the board determines that the condition concealed by the member proximately caused the total or occupational disability.

(V) Any member shall be ineligible for disability benefits with respect to an occupational or total disability ~~which~~ THAT is the proximate consequence or result of a medical condition disclosed by the member on ~~his~~ THE statewide standard health history form.

(2) **[Formerly 31-30-1008 (2)]** (a) The employer of a deceased member shall be liable for the total payment of benefits awarded under this ~~section~~ PART 8 if the board determines that:

(I) The member was occupationally or totally disabled at the time of the commencement of ~~his~~ employment by the employer, or had a medical condition at the time of the commencement of employment by the employer, and such employment commenced on or after September 1, 1989;

(II) Such preexisting disability or medical condition was the proximate cause of the death of the member;

(III) The employment was not ordered by a court; and

(IV) The employer failed to obtain and file the health form required by ~~section 31-30-1007 (6) (e)~~ PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION.

(b) The board shall enforce a claim for repayment against the employer either by increasing the contribution of the employer under ~~section 31-30-1013 (2)~~ SECTION 31-31-402 (2) or by the commencement and prosecution of a civil action. The choice of remedies shall be in the sole discretion of the board.

(c) (I) The surviving spouse and dependent children of a member, whose employer filed the statewide standard health history form pursuant to ~~section 31-30-1007 (6) (e)~~ PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION, may be disqualified from receiving an award of survivor benefits under this section if the deceased member fraudulently concealed any material fact concerning ~~his~~ THE MEMBER'S health history when ~~he completed~~ COMPLETING the form, and the board determines that the condition concealed by the member proximately caused the death of the member.

(II) The surviving spouse and dependent children of any member shall be ineligible for an award of survivor benefits in the event the member's death is the proximate consequence or results of a medical condition disclosed by such member on ~~his~~ THE statewide standard health history form.

**31-31-811. State funding of death and disability.** (1) [Formerly **31-30-1015**] Every employer in this state, except those employers covering their employees under social security and those described in ~~section 31-30-1003 (2) (a) (H) or (2) (a) (HH)~~ SECTION 31-31-802 (2) (b) AND (c) who have not elected to be subject to the provisions of ~~sections 31-30-1007 and 31-30-1008~~ THIS PART 8, shall be governed by the provisions of this section. For members who die or are disabled on or after January 1, 1980, the death and disability benefits provided to any member pursuant to this ~~part 10~~ PART 8 shall be paid for by state moneys transferred to the fund created by ~~section 31-30-1012 (1) (a)~~ SECTION 31-31-301 (1) (a), subject to the limitations imposed by ~~section 31-30-1014 (2) (b)~~ THIS SECTION. Moneys in the account created by ~~section 31-30-1012 (1) (b)~~ SECTION 31-31-301 (2) shall not be used for any purpose other than the payment of the death and disability benefits established by this ~~part 10~~ PART 8.

(2) [Formerly **31-30-1013 (3)**] ~~(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 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. 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) (e)~~ SUBSECTION (3) OF THIS SECTION 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.~~

(3) ~~Formerly 31-30-1014 (2) (c) (combines 31-30-1014 (2) (b) and (2) (c)) (2) (e)~~ 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 ~~section 31-30-1013 (3)~~ 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 31-30-1012~~ 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. ~~or upon termination of the annual contribution provided by subsection (5) of this section, whichever is earlier.~~ During the 1997 regular session of the general assembly, ~~or the regular session immediately following the termination of the annual contribution provided by subsection (5) of this section, whichever is earlier,~~ the general assembly shall review the amount of the state contribution to insure proper actuarial funding of the death and disability account. Moneys in the fund created by ~~section 31-30-1012~~ 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~~ ~~to~~ PART 8. EXCEPT AS PROVIDED IN THIS SUBSECTION (3), NO STATE MONEYS SHALL BE USED FOR THE PAYMENT OF DEATH AND DISABILITY BENEFITS, AND SUCH BENEFITS SHALL BE FUNDED ENTIRELY THROUGH LOCAL REVENUE SOURCES.

#### PART 9 SUPPLEMENTAL PROGRAMS

##### **31-31-901. [Formerly 31-30-1005.5] Deferred compensation plan.**

(1) ~~In addition to the powers and duties specified in section 31-30-1005,~~ Upon the request of any employer, the board may administer and amend or provide for the administration and amendment of any deferred compensation plan ~~which has been~~ adopted by such employer for members.

(2) In order to assist employers in establishing a deferred compensation plan, the board may develop, maintain, and amend a master deferred compensation plan document ~~which~~ THAT is intended to comply with the provisions of section 457 of the "Internal Revenue Code of 1986", as amended. Any employer may adopt such master plan for its members with the assistance of the board; however, such employer shall be responsible for ensuring that such master plan is in compliance with applicable law.

(3) There is hereby created the fire and police members' deferred compensation fund, which shall consist of the assets of deferred compensation plans administered by the board pursuant to the provisions of this section. The board shall be the trustee of ~~said~~ THE fund and shall keep a separate account of the assets of each deferred compensation plan held within ~~said~~ THE fund. The assets of each deferred

compensation plan shall remain solely the property of the employer until made available to the members or other beneficiaries of such plan. The board shall have full and unrestricted discretionary power and authority to invest and reinvest assets held within ~~said~~ THE fund subject to the provisions of section 15-1-304, C.R.S., or to provide for the investment and reinvestment of such assets.

(4) In its administration of deferred compensation plans pursuant to the provisions of this section, the board shall act in accordance with the provisions of this ~~part 10~~ ARTICLE.

(5) Any provider of investment products ~~which~~ THAT contracts with the board shall be held to the standard of conduct set forth in subsection (3) of this section with respect to those functions over which the provider has substantial discretion. The board is authorized to take such steps, including but not limited to, making contract amendments, as are required to accomplish the provisions of this subsection (5).

(6) The directors of the board shall not engage in any activities ~~which~~ THAT might result in a conflict of interest with the function of the board as administrator of any deferred compensation plan or with the role of the board as trustee of the fund created in ~~section 31-30-1012~~ SECTION 31-31-301.

(7) The expenses incurred by the board in the administration of each deferred compensation plan shall be paid from the assets of such plan being held in the fire and police members' deferred compensation fund pursuant to the provisions of subsection (3) of this section. Such expenses shall not be paid for by the fire and police pension association.

(8) For the purposes of this section, unless the context otherwise requires, "deferred compensation" means that income ~~which~~ THAT a member may legally defer pursuant to current rulings of the internal revenue service and ~~which~~ THAT, while invested under a deferred compensation plan adopted pursuant to this section, is exempt from federal income taxes on both the employer's contribution and all interest, dividends, and capital gains until the ultimate distribution to the member.

**31-31-902. [Formerly 31-30-1005 (7)] Group health insurance plans.** ~~(7)-(a)~~ (1) (a) The board may enter into contracts with carriers to provide group health insurance plans for the following individuals if they are receiving a benefit from another plan administered by the association:

(I) A retired member;

(II) A retired volunteer firefighter;

(III) A surviving spouse;

(IV) A dependent child; and

(V) A recipient of a benefit from the fire and police members' deferred compensation fund created by ~~section 31-30-1005.5~~ SECTION 31-31-901.

~~(b)~~ (2) The administration and management of the group health insurance plans shall be the exclusive responsibility of the respective carrier. The cost of the plan, coverage, and eligibility requirements shall be as negotiated in the contract between the association and the carrier.

(3) THE ASSOCIATION SHALL PAY NO PREMIUM SUBSIDY FOR GROUP HEALTH INSURANCE AUTHORIZED TO BE OFFERED BY THIS SECTION. PREMIUMS SHALL BE DEDUCTED FROM THE MONTHLY BENEFIT PAYMENTS OF PARTICIPATING RETIRED MEMBERS OR THEIR BENEFICIARIES.

~~(e)~~ (4) For purposes of this ~~subsection (7)~~ SECTION, the term "carrier" means a private insurance company holding a valid outstanding certificate of authority from the division of insurance or a nonprofit hospital service plan or a nonprofit medical service plan incorporated as a nonprofit corporation pursuant to article 40 of title 7, C.R.S., or a health maintenance organization established pursuant to parts 1 and 4 of article 16 of title 10, C.R.S.

**31-31-903. [Formerly 31-30-1005 (8)] Group life insurance plans.** ~~(8) (a) (f)~~ (1) (a) The board may enter into contracts with carriers to provide group life insurance coverage to active members of paid pension plans administered by the association and, if they are receiving a benefit from another plan administered by the association, to the following individuals:

~~(A)~~ (I) A retired member;

~~(B)~~ (II) A retired volunteer firefighter;

~~(C)~~ (III) A surviving spouse;

~~(D)~~ (IV) A dependent child; and

~~(E)~~ (V) An individual who is receiving a benefit from the fire and police members' deferred compensation fund created by ~~section 31-30-1005.5~~ SECTION 31-31-901.

~~(H)~~ (b) For purposes of this ~~subsection (8)~~ SECTION, "carrier" means a private insurance company holding a valid outstanding certificate of authority from the division of insurance.

~~(b)~~ (2) The administration and management of the group life insurance plan shall be the exclusive responsibility of the carrier. The terms and conditions of coverage shall be as negotiated in the contract between the association and the carrier. The board may change the terms of or discontinue the coverage if the board determines that such action is in the best interests of the members. Participating members shall be notified sixty days prior to the effective date of any such change or discontinuance.

~~(e)~~ (3) The association shall pay no premium subsidy for group life insurance authorized to be offered by this ~~subsection (8)~~ SECTION. Premiums shall be deducted from the salaries of participating active members and submitted to the association with the employer's monthly contribution reports or shall be deducted

from the monthly benefit payments of participating retired members OR THEIR BENEFICIARIES. Participating members who receive neither salaries nor benefits may arrange alternative methods of premium payment with the association.

(4) The named beneficiary shall be the beneficiary of life insurance obtained pursuant to the provisions of this ~~subsection (8)~~ SECTION, unless the member or a court order names a different beneficiary for life insurance purposes. Life insurance obtained pursuant to the provisions of this ~~subsection (8)~~ SECTION may be assigned by the member.

PART 10  
POLICE OFFICERS' AND FIREFIGHTERS'  
PENSION REFORM COMMISSION

**31-31-1001. [Formerly 31-30-901] Commission created - duties.**

(1) There is hereby created the ~~police men's~~ POLICE OFFICERS' and firefighters' pension reform commission to be comprised of five senators appointed by the president of the senate and ten representatives appointed by the speaker of the house of representatives. Members of the commission shall receive the same per diem allowance authorized for other members of the general assembly serving on interim study committees and actual expenses for participation in meetings of the commission. Staff services for the commission shall be furnished by the state auditor's office, the legislative council, and the office of legislative legal services. The state auditor, with the approval of the commission, may contract for services deemed necessary for the implementation of this ~~part 9 and part 8 of this article~~ PART 10.

(2) The commission shall study and develop proposed legislation relating to funding of ~~police men's and fire men's~~ POLICE OFFICERS' AND FIREFIGHTERS' pensions in this state and benefit designs of such pension plans. The commission study shall include a review of, and the proposed legislation may include, among other subjects, the following:

- (a) Normal retirement age and compulsory retirement;
- (b) Payment of benefits prior to normal retirement age;
- (c) Service requirements for eligibility;
- (d) Rate of accrual of benefits;
- (e) Disability benefits;
- (f) Survivors' benefits;
- (g) Vesting of benefits;
- (h) Employee contributions;
- (i) Postretirement increases;

- (j) Creation of an administrative board;
- (k) Creation of a consolidated statewide system;
- (l) Distribution of state funds;
- (m) Coordination of benefits with other programs;
- (n) The volunteer firefighter pension system;
- (o) The provisions of ~~part 10~~ of this article AND ARTICLE 30.5 OF THIS TITLE.
- ~~(3) Repealed.~~
- ~~(4) Repealed.~~

**SECTION 2.** 8-42-103 (1) (d) (III), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-42-103. Disability indemnity payable as wages - period of disability.**

(1) If the injury or occupational disease causes disability, a disability indemnity shall be payable as wages pursuant to the provisions of section 8-42-105 (2) (a) subject to the following limitations:

(d) (III) The provisions of this paragraph (d) shall apply to a disability pension paid pursuant to ~~part 3, 4, 5, 6, or 10 of article 30~~ ARTICLE 30.5 OR 31 of title 31, C.R.S.; except that said reduction shall not reduce the combined weekly disability benefits below a sum equal to one hundred percent of the state average weekly wage as defined in section 8-47-106 and applicable to the year in which the weekly disability benefits are being paid.

**SECTION 3.** 13-54.5-106 (2) (j) (XI), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**13-54.5-106. Notice to judgment debtor in other garnishment.** (2) The notice of exemption and pending levy in such garnishment proceeding against the personal property of a judgment debtor who is a natural person shall contain the following:

(j) A statement of the judgment debtor's right to claim any property levied upon as exempt, including, but not limited to:

(XI) ~~Policemen's and firemen's~~ POLICE OFFICERS' AND FIREFIGHTERS' pension fund payments under ~~sections 31-30-313, 31-30-412, 31-30-518, and 31-30-616~~ SECTION 31-30.5-208, C.R.S.;

**SECTION 4.** 30-20-512 (1) (n) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**30-20-512. General powers of district.** (1) The district has the following limited powers:

(n) In a district providing fire protection services:

(I) To create and maintain a ~~firemen's~~ FIREFIGHTERS' pension fund, under the provisions of ~~parts 4 and 8 of article 30~~ PARTS 2 AND 4 OF ARTICLE 30.5 of title 31, C.R.S., subject to the provisions of ~~part 10 of said article~~ ARTICLE 31 OF SAID TITLE, and a volunteer firefighter pension fund under part 11 of article 30 of title 31, C.R.S.; and

**SECTION 5.** 31-30-1102 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-30-1102. Definitions.** As used in this part 11, unless the context otherwise requires:

(3) "Fire and police pension association" means the association created by ~~section 31-30-1004~~ SECTION 31-31-201.

**SECTION 6.** 31-30-1110, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-30-1110. Property tax.** The governing body of a municipality with a population of less than one hundred thousand, the board of directors of each fire protection district, or the board of a county improvement district may levy and set apart a tax for each year of not more than one mill on the taxable property in the municipality or district. The governing body or board shall credit the proceeds of this tax, if any, to the municipality's or district's fund. The total tax levied under this section and ~~section 31-30-405 (2)~~ SECTION 31-30.5-403 (1), if any, for a fire department that has both paid and volunteer firefighters must not exceed one mill on the taxable property in the municipality or district. Any new tax or an increase in the mill levy under this section shall comply with the voter approval requirements under section 20 of article X of the state constitution.

**SECTION 7.** 31-30-1112 (2) (f), (2) (g) (II), and (2) (h), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**31-30-1112. State contributions - intent.** (2) (f) In calculating the contribution by the state provided in this section, the cash equivalent of the death and disability benefit under ~~sections 31-30-1007 and 31-30-1008~~ PART 8 OF ARTICLE 31 OF THIS TITLE for each municipality or district having members shall be subtracted. If the death and disability benefit is equal to or greater than the amount scheduled to be contributed to the municipality or district, the fire and police pension association shall not make a contribution, and the state payment of death and disability benefits shall be in lieu of any contribution previously made to the municipality or district. For the purposes of this paragraph (f), "member" has the meaning provided in ~~section 31-30-1002~~ SECTION 31-31-102 (4).

(g) The moneys necessary to make the state's contribution under this section shall be derived from the proceeds of the tax imposed by section 10-3-209, C.R.S., as follows:

(II) To the extent the state's contribution under this section exceeds the

contributions made by the state during the calendar year 1979, the state treasurer shall transfer the excess amounts from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the fire and police pension association on September 30 of each year for disbursement to the municipality's or district's funds. Moneys transferred under this subparagraph (II) shall be separate from and in addition to moneys transferred under ~~section 31-30-1014(5)~~ SECTION 31-30.5-307 (2) and do not revert to the general fund but are available for the purposes provided in this section.

(h) In addition to any other transfers required by this section, on September 30 of each year, the state treasurer shall transfer from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the fire and police pension association, such moneys as may be necessary to pay for the accidental death and disability insurance policy for volunteer firefighters provided in ~~section 31-30-1005(4)~~ SECTION 31-31-202 (4).

**SECTION 8.** 32-1-702 (4) (b) (I), Colorado Revised Statutes, as amended, is amended to read:

**32-1-702. Requirements for dissolution petition.** (4) The petition for dissolution shall also provide for one of the following:

(b) (I) A plan for dissolution specifically providing that services are to be continued within the special district by one or more regional service authorities, municipalities, counties, intergovernmental authorities formed and operated under part 2 of article 1 of title 29, C.R.S., or other special districts, or any combination thereof, and incorporating an agreement with such regional service authority, municipality, county, intergovernmental authority, or other special district, or any combination thereof, under which responsibility for all services presently provided by the special district will be assumed by such entity. Such agreement shall provide for the operation and maintenance of the system or facilities of the special district by the regional service authority, municipality, county, intergovernmental authority, or other special district, provisions for service, rates, and charges, and, if applicable, provisions concerning acquisition of the special district's system or facilities, consolidation or inclusion of territory, and procedures for contract modification, employee rights, and retirement benefits. Such agreement may include provisions for certification of levies by the special district continuing in existence under paragraph (c) of subsection (3) of this section, the contracting regional service authority, municipality, county, intergovernmental authority, or other special district providing the services. Any agreement concerning fire protection districts entered into pursuant to this subsection (4) shall include provisions for the continuation of paid employees' rights pursuant to section 32-1-1002 (2) and the retirement benefits of paid ~~firemen~~ FIREFIGHTERS as provided in ~~parts 4, 8, and 10 of article 30~~ PARTS 2 AND 4 OF ARTICLE 30.5 AND ARTICLE 31 of title 31, C.R.S., and the retirement benefits of volunteer firefighters under part 11 of article 30 of title 31, C.R.S.

**SECTION 9.** 32-1-1002 (1) (g), Colorado Revised Statutes, as amended, is amended to read:

**32-1-1002. Fire protection districts - additional powers and duties.**  
(1) In addition to the powers specified in section 32-1-1001, the board of any fire protection district has the following powers for and on behalf of such district:

(g) To create and maintain a paid ~~firemen's~~ FIREFIGHTERS' pension fund, under the provisions of ~~parts 4 and 8 of article 30~~ PARTS 2 AND 4 of title 31, C.R.S., subject to the provisions of ~~part 10 of said article~~ ARTICLE 31 OF SAID TITLE, and a volunteer firefighter pension fund under part 11 of article 30 of title 31, C.R.S.;

**SECTION 10. Repeal of provisions being relocated in this act.** Parts 3, 4, 5, 6, 7, 8, 9, and 10 of article 30 of title 31, Colorado Revised Statutes, 1986 Repl. Vol., as amended, are repealed.

**SECTION 11. 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 23, 1996