

CHAPTER 224

**GOVERNMENT - MUNICIPAL**

**HOUSE BILL 98-1380**

BY REPRESENTATIVES Grampas, Allen, G. Berry, Chavez, Clarke, Dean, Entz, Epps, Hefley, Kaufman, Keller, Mace, Nichol, Paschall, Romero, Sullivant, Taylor, Tupa, Udall, and S. Williams; also SENATOR Rizzuto.

**AN ACT**

CONCERNING PENSION BENEFIT AMOUNTS PROVIDED UNDER THE "VOLUNTEER FIREFIGHTER PENSION ACT".

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

**SECTION 1. Repeal.** 31-30-1120, Colorado Revised Statutes, as amended by House Bill 98-1035, enacted at the Second Regular Session of the Sixty-first General Assembly, is repealed as follows:

~~**31-30-1120. Maximum benefit amount.** Except as otherwise provided in sections 31-30-1122 and 31-30-1129, a benefit provided in this part 11 must not exceed four hundred fifty dollars per month.~~

**SECTION 2.** 31-30-1121 (1), Colorado Revised Statutes, is amended to read:

**31-30-1121. Disability pension - rules - hearing.** (1) If a volunteer firefighter is injured while in the line of duty as a volunteer firefighter, the board shall pay to the volunteer firefighter:

(a) A short-term disability monthly annuity for not more than one year in an amount it determines is proper and equitable, considering the financial condition of the fund, but not more than one-half the amount ~~stated in section 31-30-1120~~ PAID BY THE BOARD PURSUANT TO SECTION 31-30-1122 (1) OR TWO HUNDRED TWENTY-FIVE DOLLARS, WHICHEVER IS GREATER; or

(b) A long-term disability monthly annuity for a disability that deprives the volunteer firefighter of an earning capacity and that extends beyond one year in an amount it determines is proper and necessary but not more than the amount ~~stated in~~

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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.*

~~section 31-30-1120~~ PAID BY THE BOARD PURSUANT TO SECTION 31-30-1122 (1) OR FOUR HUNDRED FIFTY DOLLARS, WHICHEVER IS GREATER. ANY INCREASE IN THE BENEFITS IN A MUNICIPALITY UNDER THIS PARAGRAPH (b) SHALL BE APPROVED BY THE MUNICIPALITY'S GOVERNING BODY.

**SECTION 3.** 31-30-1122 (1), Colorado Revised Statutes, as amended by House Bill 98-1035, enacted at the Second Regular Session of the Sixty-first General Assembly, is amended to read:

**31-30-1122. Retirement pension.** (1) The board of a municipality, with the prior consent of the municipality's governing body, or the board of a fire protection district or county improvement district may pay a retirement pension to a volunteer firefighter who has twenty years of active service and who is over the age of fifty years. The retirement pension shall be an amount determined by the board of not more than one hundred dollars per month, unless an actuarial review indicates a higher payment is actuarially sound; ~~but in no case shall the retirement pension exceed the amount stated in section 31-30-1120;~~ except that any such amount determined by the board of a municipality shall be made with the prior consent of the municipality's governing body. ~~Any higher payment made pursuant to this section shall not be subject to the maximum benefit amount contained in section 31-30-1120;~~ Pensions that make payments in excess of three hundred dollars per month are subject to the state contribution limitation specified in section 31-30-1112 (2) (b). Except as provided in section 31-30-1132, a volunteer firefighter shall not receive a retirement pension for service in a fire department while the firefighter is an active member of that department. A volunteer firefighter shall maintain a minimum training participation in the fire department of thirty-six hours each year to qualify for retirement benefits. A volunteer firefighter who has served twenty years and who has not reached the age of fifty years may be granted a leave of absence and retain all rights to a retirement pension and is entitled to the retirement pension when the firefighter is fifty years of age.

**SECTION 4.** 31-30-1123, Colorado Revised Statutes, is amended to read:

**31-30-1123. Retirement pension - sources of payment.** The retirement pension of a volunteer firefighter who has earned twenty years of active service as a volunteer firefighter for any one municipality or district shall be paid from the fund of that municipality or district, and no other fund shall pay a pension to that volunteer firefighter. The retirement pension of a volunteer firefighter who earns twenty years of active service as a volunteer firefighter after June 2, 1977, by serving more than one municipality or district shall be paid from the fund of each municipality or district for which the volunteer firefighter served at least five years. The amount paid by each fund for each year of service with the particular municipality or district shall equal one-twentieth of the retirement pension being paid by that fund on the day the volunteer firefighter left the service of the particular municipality or district. The retirement pension of a volunteer firefighter who earns twenty years of active service as a volunteer firefighter by serving more than one municipality or district shall be paid only by the municipality or district last served by that volunteer firefighter if any part of the twenty years of service was earned on or before June 2, 1977. In no event shall a volunteer firefighter receive a total retirement benefit from all volunteer firefighter pension funds exceeding the ~~amount stated in section 31-30-1120~~ MAXIMUM AMOUNT PAID BY THE BOARD FROM SUCH FUNDS PURSUANT TO SECTION

31-30-1122 (1) OR FOUR HUNDRED FIFTY DOLLARS, WHICHEVER IS GREATER.

**SECTION 5.** 31-30-1126, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**31-30-1126. Survivor benefit.** (4) THE BENEFITS UNDER THIS SECTION MAY BE INCREASED IN THE SAME MANNER AS POSTRETIREMENT BENEFIT INCREASES AS PROVIDED IN SECTION 31-30-1122 (3), SUBJECT TO THE STATE CONTRIBUTION LIMIT SET FORTH IN SECTION 31-30-1112 (2) (c.5).

**SECTION 6.** 31-30-1127, Colorado Revised Statutes, is amended to read:

**31-30-1127. Survivor benefit - death from injuries in the line of duty.**

(1) Except as otherwise provided in subsection (4) of this section, if a fire department member dies from injuries received while in the line of duty as a volunteer firefighter and leaves a surviving spouse, the board shall pay the surviving spouse a monthly annuity either in an amount the board deems proper and necessary, but not more than one-half the amount ~~provided in section 31-30-1120~~ PAID BY THE BOARD PURSUANT TO SECTION 31-30-1122 (1) OR TWO HUNDRED TWENTY-FIVE DOLLARS, WHICHEVER IS GREATER, or within limits prescribed by municipal ordinance or by rules of the board of the affected municipality or district. The annuity shall cease if the surviving spouse remarries. Dissolution of a subsequent marriage does not reinstate the annuity.

(2) Except as otherwise provided in subsection (4) of this section, if there is no surviving spouse as provided in subsection (1) of this section but there is a surviving child of the deceased volunteer firefighter under eighteen years of age, the board shall pay a monthly annuity either in an amount the board deems proper or necessary, but not more than one-half the amount ~~provided in section 31-30-1120~~ PAID BY THE BOARD PURSUANT TO SECTION 31-30-1122 (1) OR TWO HUNDRED TWENTY-FIVE DOLLARS, WHICHEVER IS GREATER, or within limits prescribed by municipal ordinance or by rules of the board of the affected municipality or district. The board shall pay this annuity to the guardian of the child on behalf of the child. The annuity shall cease when the child is eighteen years of age.

(3) Except as otherwise provided in subsection (4) of this section, if there is no surviving spouse or child as provided in subsections (1) and (2) of this section but there is a surviving dependent parent of the deceased volunteer firefighter, the board shall pay the dependent parent a monthly annuity either in an amount the board deems proper and necessary, but not more than one-half the amount ~~provided in section 31-30-1120~~ PAID BY THE BOARD PURSUANT TO SECTION 31-30-1122 (1) OR TWO HUNDRED TWENTY-FIVE DOLLARS, WHICHEVER IS GREATER, or within limits prescribed by municipal ordinance or by rules of the board of the affected municipality or district. The annuity shall cease if the dependent parent remarries. Dissolution of a subsequent marriage does not reinstate the annuity.

(4) The benefits under this section:

- (a) Are in addition to the educational benefits under section 23-3.3-205, C.R.S.;
- (b) Do not apply if the optional survivor benefits under section 31-30-1128 are

provided; AND

(c) MAY BE INCREASED IN THE SAME MANNER AS POSTRETIREMENT BENEFIT INCREASES AS PROVIDED IN SECTION 31-30-1122 (3), SUBJECT TO THE STATE CONTRIBUTION LIMIT SET FORTH IN SECTION 31-30-1112 (2) (c.5).

**SECTION 7.** 31-30-1129, Colorado Revised Statutes, is amended to read:

**31-30-1129. Funeral benefit.** When an active volunteer firefighter or retired fire department member dies, the board shall pay a funeral benefit to assist in the proper burial of the deceased firefighter in an amount determined by the board of not more than twice the amount determined by the board under section 31-30-1122, but not less than one hundred dollars. ~~notwithstanding section 31-30-1120.~~ The board shall pay this funeral benefit to any person who pays the necessary funeral expenses.

**SECTION 8. 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 26, 1998