

CHAPTER 16

GOVERNMENT - MUNICIPAL

SENATE BILL 99-032

BY SENATORS Tebedo, Feeley, Powers, Reeves, and Andrews;
also REPRESENTATIVES Johnson, Alexander, Berry, Dean, Miller, Saliman, Hoppe, Kaufman, Morrison, Taylor, and Vigil.

AN ACT

CONCERNING THE SELECTION OF DISABILITY BENEFIT OPTIONS BY MEMBERS OF THE STATEWIDE DEATH AND DISABILITY PLAN WHO ARE MEMBERS OF THE FIRE AND POLICE PENSION ASSOCIATION.

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

SECTION 1. 31-31-803 (5), Colorado Revised Statutes, is amended, and the said 31-31-803 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

31-31-803. Retirement for disability. (5) (a) Any member who is awarded a disability pension under this section or section 31-31-806.5 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 THIS section. ~~31-31-403 (5). All provisions of section 31-31-403 (5) (a), (5) (c), and (5) (d) shall apply to 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 31-31-403. A member shall be considered to have elected option 1 if the member is awarded a disability pension pursuant to this section or section 31-31-806.5, 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

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

the remainder of the original pension for which the member would otherwise have been eligible if the member had not changed the original election.

(8) (a) A MEMBER ELIGIBLE FOR AN OCCUPATIONAL DISABILITY BENEFIT UNDER SUBSECTION (2) OF THIS SECTION OR AN OCCUPATIONAL DISABILITY BENEFIT UNDER SECTION 31-31-806.5 MAY ELECT TO RECEIVE ONE OF THE FOLLOWING DISABILITY BENEFIT OPTIONS IN LIEU OF SUCH DISABILITY BENEFIT:

(I) OPTION 1. A REDUCED ANNUAL DISABILITY BENEFIT PAYABLE TO THE MEMBER AND, UPON THE MEMBER'S DEATH, ALL OF SUCH REDUCED ANNUAL DISABILITY BENEFIT TO BE PAID TO THE MEMBER'S DESIGNATED BENEFICIARY FOR LIFE;

(II) OPTION 2. A REDUCED ANNUAL DISABILITY BENEFIT PAYABLE TO THE MEMBER AND, UPON THE MEMBER'S DEATH, ONE-HALF OF SUCH REDUCED ANNUAL DISABILITY BENEFIT TO BE PAID TO THE MEMBER'S DESIGNATED BENEFICIARY FOR LIFE; OR

(III) OPTION 3. A REDUCED ANNUAL DISABILITY BENEFIT PAYABLE JOINTLY TO THE MEMBER AND THE MEMBER'S DESIGNATED BENEFICIARY AND, UPON THE DEATH OF EITHER, ONE-HALF OF SUCH REDUCED DISABILITY BENEFIT TO BE PAID TO THE SURVIVOR FOR LIFE.

(b) A MEMBER SHALL BE DEEMED TO HAVE ELECTED OPTION 1 SPECIFIED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (8) IF THE MEMBER IS AWARDED AN OCCUPATIONAL DISABILITY BENEFIT UNDER SUBSECTION (2) OF THIS SECTION OR AN OCCUPATIONAL DISABILITY BENEFIT UNDER SECTION 31-31-806.5, IS SURVIVED BY A SPOUSE OR DEPENDENT CHILD, AND DIES BEFORE MAKING AN ELECTION ALLOWED UNDER PARAGRAPH (a) OF THIS SUBSECTION (8).

(9) AFTER AN ELECTION HAS BEEN MADE OF ANY OF THE OPTIONS PROVIDED IN PARAGRAPH (a) OF SUBSECTION (8) OF THIS SECTION, THE ELECTION SHALL BE IRREVOCABLE UPON THE MEMBER CASHING THE FIRST DISABILITY BENEFIT CHECK OR SIXTY DAYS FROM THE DATE OF ISSUANCE OF THE CHECK, WHICHEVER OCCURS FIRST. THE MEMBER'S BENEFICIARY DESIGNATION SHALL ALSO BE IRREVOCABLE AT SUCH TIME UNLESS THE MEMBER'S MARITAL STATUS CHANGES AS A RESULT OF DISSOLUTION OF MARRIAGE, DEATH OF A BENEFICIARY, MARRIAGE, OR 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 SUBSECTION (9) SHALL ONLY APPLY TO ANY FINAL DISSOLUTION OF MARRIAGE DECREE OF A MEMBER ENTERED ON OR AFTER JULY 1, 1990.

(10) THE JOINT DISABILITY BENEFIT PROVIDED IN THIS SECTION SHALL BE CALCULATED AS THE ACTUARIAL EQUIVALENT OF THE NORMAL ANNUAL DISABILITY BENEFIT OTHERWISE PAYABLE AS PROVIDED IN THIS SECTION. IN THE EVENT OF A CHANGE IN THE BENEFICIARY DESIGNATION PURSUANT TO SUBSECTION (9) OF THIS SECTION, THE JOINT DISABILITY BENEFIT PAYABLE SHALL BE RECALCULATED SO AS TO BE THE ACTUARIAL EQUIVALENT OF THE REMAINDER OF THE ORIGINAL DISABILITY BENEFIT BASED UPON THE MEMBER'S INITIAL BENEFICIARY DESIGNATION, IF ANY.

(11) (a) A MEMBER ELIGIBLE FOR A TOTAL DISABILITY BENEFIT UNDER SUBSECTION (1) OF THIS SECTION OR A TOTAL DISABILITY BENEFIT UNDER SECTION 31-31-806.5 MAY ELECT TO RECEIVE ONE OF THE DISABILITY BENEFIT OPTIONS LISTED IN

PARAGRAPH (a) OF SUBSECTION (8) OF THIS SECTION IN LIEU OF SUCH DISABILITY BENEFIT. A MEMBER SHALL BE DEEMED TO HAVE ELECTED OPTION 1 SPECIFIED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (8) OF THIS SECTION IF THE MEMBER IS AWARDED A TOTAL DISABILITY BENEFIT UNDER SUBSECTION (1) OF THIS SECTION OR A TOTAL DISABILITY BENEFIT UNDER SECTION 31-31-806.5, IS SURVIVED BY A SPOUSE OR DEPENDENT CHILD, AND DIES BEFORE MAKING AN ELECTION ALLOWED UNDER PARAGRAPH (a) OF SUBSECTION (8) OF THIS SECTION.

(b) THIS SUBSECTION (11) SHALL NOT APPLY IF HOUSE BILL 99-1062 IS ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY AND BECOMES LAW.

SECTION 2. Effective date - applicability. (1) This act shall take effect January 1, 2000, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to all members of the fire and police pension association receiving or eligible to receive benefits provided by the statewide death and disability plan on or after the effective date of this act.

Approved: March 15, 1999