

CHAPTER 305

GOVERNMENT - STATE

HOUSE BILL 99-1369

BY REPRESENTATIVES Scott, Clapp, King, May, Mitchell, Nunez, Sinclair, Smith, Witwer, Dean, Gordon, Gotlieb, Kaufman, Kester, Mace, Paschall, Coleman, Lee, McKay, and Ragsdale;
also SENATORS Lacy, Congrove, Andrews, Epps, Evans, Hernandez, Musgrave, and Tebedo.

AN ACT

CONCERNING THE AUTHORITY OF THE STATE TREASURER TO ISSUE STATE PENSION OBLIGATION NOTES FOR PURPOSES OF PAYING IN ONE LUMP SUM THE STATE'S SHARE OF THE UNFUNDED LIABILITY OF CERTAIN STATE-ASSISTED FIREFIGHTERS' AND POLICE OFFICERS' OLD HIRE PENSION PLANS.

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

SECTION 1. Article 36 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-36-119. State pension obligation notes - state-assisted firefighters' and police officers' old hire pension plans - legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) UNDER PART 3 OF ARTICLE 30.5 OF TITLE 31, C.R.S., THE STATE HAS IN PLACE A LONG-TERM PLAN TO FUND ITS SHARE OF THE UNFUNDED LIABILITY OF CERTAIN STATE-ASSISTED FIREFIGHTERS' AND POLICE OFFICERS' OLD HIRE PENSION PLANS;

(b) AS PART OF THE STATE'S PLAN, THE STATE AND PARTICIPATING LOCAL GOVERNMENTS HAVE BEEN ANNUALLY CONTRIBUTING SPECIFIC AMOUNTS TO REDUCE SUCH UNFUNDED LIABILITY;

(c) THE STATE HAS AVAILABLE A FINANCING VEHICLE TO PAY IN ONE LUMP SUM ITS SHARE OF THE UNFUNDED LIABILITY OF CERTAIN STATE-ASSISTED FIREFIGHTERS' AND POLICE OFFICERS' OLD HIRE PENSION PLANS THROUGH THE ISSUANCE OF STATE PENSION OBLIGATION NOTES AND RELATED FINANCIAL INSTRUMENTS;

(d) THE PRINCIPAL AND INTEREST ON SUCH NOTES IS SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY;

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

(e) THE PURPOSE OF THIS SECTION IS TO AUTHORIZE STATE PENSION OBLIGATION NOTES AND TO FACILITATE THE USE OF THESE FINANCIAL INSTRUMENTS TO PAY IN FULL IN ONE LUMP SUM THE STATE'S PORTION OF THE UNFUNDED LIABILITY OF CERTAIN STATE-ASSISTED OLD HIRE PENSION PLANS, IF STATE PENSION OBLIGATION NOTES WOULD BE ADVANTAGEOUS TO THE STATE; AND

(f) THE INTENT OF THIS SECTION IS TO PROVIDE AN ALTERNATIVE METHOD FOR FUNDING THE PLAN SPECIFIED IN SECTION 31-30.5-307, C.R.S. THE PROVISIONS OF THIS SECTION SHOULD NOT BE CONSTRUED TO REPLACE OR OTHERWISE REPEAL SECTION 31-30.5-307, C.R.S.

(2) (a) THE STATE TREASURER MAY ISSUE STATE PENSION OBLIGATION NOTES TO BE REPAID FROM AMOUNTS ANNUALLY APPROPRIATED AND AVAILABLE UNDER STATE LAW FOR PURPOSES OF PAYING IN ONE LUMP SUM THE TOTAL AMOUNT NECESSARY TO ELIMINATE THE STATE'S SHARE OF UNFUNDED LIABILITY IN CERTAIN OLD HIRE PENSION PLANS RECEIVING STATE ASSISTANCE PURSUANT TO SECTION 31-30.5-307, C.R.S. THE AMOUNT OF THE LUMP SUM PAYMENT SHALL BE THE PRESENT VALUE OF THE STATE'S SHARE OF THE UNFUNDED LIABILITY CALCULATED AT A RATE OF SEVEN AND ONE-HALF PERCENT AS OF NO LATER THAN THE FIRST DAY OF THE MONTH IN WHICH THE LUMP SUM PAYMENT IS MADE. FOR PURPOSES OF ACCOUNTING FOR THE PROCEEDS FROM THE SALE OF SUCH STATE PENSION OBLIGATION NOTES UNDER THIS SECTION, THE FIRE AND POLICE PENSION ASSOCIATION SHALL MAINTAIN A SEPARATE ACCOUNT FOR UNALLOCATED STATE FUNDS AND SHALL ANNUALLY REPORT TO THE STATE TREASURER ON THE STATUS OF SUCH PROCEEDS AND EARNINGS THEREON. THE BOARD OF DIRECTORS OF THE FIRE AND POLICE PENSION ASSOCIATION MAY INVEST MONEYS IN THE UNALLOCATED STATE FUNDS ACCOUNT WITH OTHER MONEYS IN THE FIRE AND POLICE MEMBERS' BENEFIT FUND, CREATED PURSUANT TO SECTION 31-31-301, C.R.S., AND PRORATE THE EARNINGS AND EXPENSES ASSOCIATED WITH SUCH ACTIVITIES. FROM THE UNALLOCATED STATE FUNDS ACCOUNT, THE BOARD OF DIRECTORS OF THE FIRE AND POLICE PENSION ASSOCIATION MAY ANNUALLY DISTRIBUTE UP TO TWENTY-FIVE MILLION THREE HUNDRED TWENTY-ONE THOUSAND SEVENTY-NINE DOLLARS TO ANY FUND OF AN OLD HIRE PENSION PLAN RECEIVING STATE ASSISTANCE UNDER SECTION 31-30.5-307, C.R.S. ANY MONEYS REMAINING IN THE UNALLOCATED STATE FUNDS ACCOUNT AFTER THE UNFUNDED LIABILITIES IN STATE-ASSISTED OLD HIRE PENSION PLANS ARE ELIMINATED SHALL BE TRANSMITTED TO THE STATE TREASURER, USED TO PAY REMAINING INTEREST ON AND PRINCIPAL OF SUCH NOTES, AND, ONCE SUCH INSTRUMENTS ARE SATISFIED, CREDITED TO THE GENERAL FUND.

(b) (I) THE STATE TREASURER SHALL CONTRACT FOR SERVICES RELATED TO ISSUING STATE PENSION OBLIGATION NOTES UNDER THIS SECTION.

(II) IN CONTRACTING FOR THE ISSUANCE OF STATE PENSION OBLIGATION NOTES UNDER THIS SECTION, THE STATE TREASURER SHALL TAKE THE APPROPRIATE ACTIONS TO ENSURE THAT THE DIRECT EXPENSES OR OTHER COSTS OF ALL GOVERNMENT ENTITIES INCURRED IN CONNECTION WITH CONTRACTING FOR SUCH MATTERS ARE PAID FROM THE PROCEEDS OF THE SALE OF SUCH NOTES. THE FINANCIAL OR OTHER INSTRUMENT AUTHORIZING THE ISSUANCE OF STATE PENSION OBLIGATION NOTES IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION SHALL PLEDGE FOR THE REPAYMENT OF SUCH NOTES, TO THE EXTENT NECESSARY UNDER SECTION 20 (4)(b) OF THE STATE CONSTITUTION, MONEYS IN THE SEPARATE ACCOUNT FOR UNALLOCATED

STATE FUNDS MAINTAINED UNDER PARAGRAPH (a) OF THIS SUBSECTION (2) INTO WHICH PROCEEDS FROM THE ISSUANCE OF SUCH NOTES WERE DEPOSITED.

(c) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF STATE PENSION OBLIGATION NOTES ARE ISSUED UNDER THIS SECTION TO COVER THE STATE'S PORTION OF THE UNFUNDED LIABILITY OF THE STATE-ASSISTED OLD HIRE PENSION PLANS, THE SUM THAT WOULD HAVE OTHERWISE BEEN TRANSFERRED ANNUALLY UNDER SECTION 31-30.5-307 (2), C.R.S., SHALL BE EXPENDED BY THE STATE TREASURER TO PAY INTEREST ON AND PRINCIPAL OF STATE PENSION OBLIGATION NOTES ISSUED UNDER THIS SECTION, SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY. UPON PAYMENT OF THE PROCEEDS FROM THE SALE OF STATE PENSION OBLIGATION NOTES UNDER THIS SECTION TO COVER THE STATE'S PORTION OF THE UNFUNDED LIABILITY OF CERTAIN STATE-ASSISTED OLD HIRE PENSION PLANS, THE STATE'S ANNUAL OBLIGATION TO FUND ANY UNFUNDED LIABILITY OF SUCH STATE-ASSISTED OLD HIRE PENSION PLANS UNDER SECTION 31-30.5-307, C.R.S., SHALL BE FULLY SATISFIED; EXCEPT THAT, IF THE TRANSACTION IS STRUCTURED IN ANY MANNER THAT PREVENTS THE FIRE AND POLICE PENSION ASSOCIATION FROM ANNUALLY TRANSFERRING THE FULL AMOUNTS OTHERWISE REQUIRED TO ASSIST OLD HIRE PENSION FUNDS UNDER SECTION 31-30.5-307, C.R.S., THE STATE TREASURER SHALL TRANSFER TO THE FUND CREATED BY SECTION 31-31-301, C.R.S., ON SEPTEMBER 30 OF THE FOLLOWING YEAR AND EACH YEAR THEREAFTER THROUGH 2009, IF REQUIRED, FROM THE PROCEEDS OF THE TAX IMPOSED BY SECTION 10-3-209, C.R.S., THE AMOUNTS NECESSARY TO MAINTAIN STATE ASSISTANCE TO OLD HIRE PENSION PLANS AS SET FORTH IN SECTION 31-30.5-307, C.R.S.

(3) STATE PENSION OBLIGATION NOTES ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION THAT EVIDENCE THE RIGHT TO RECEIVE PAYMENTS IN SUBSEQUENT FISCAL YEARS CONTINGENT UPON FUNDS FOR SUCH PAYMENTS BEING APPROPRIATED ON AN ANNUAL BASIS IN THE SOLE DISCRETION OF THE GENERAL ASSEMBLY DO NOT CONSTITUTE "A DEBT BY LOAN IN ANY FORM" UNDER SECTION 3 OF ARTICLE XI OF THE STATE CONSTITUTION, AND THE PROCEEDS OF THE SALE OF SUCH NOTES ARE NOT INCLUDED IN STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ARTICLE 77 OF THIS TITLE.

SECTION 2. 31-30.5-307, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-30.5-307. State contribution. (2.5) IF STATE PENSION OBLIGATION NOTES ARE ISSUED UNDER SECTION 24-36-119, C.R.S., THE PROVISIONS OF THIS SECTION ARE SUBJECT TO THE PROVISIONS OF SECTION 24-36-119, C.R.S.

SECTION 3. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of 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; except that, if 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.

Approved: June 2, 1999