

CHAPTER 52

GOVERNMENT - LOCAL

SENATE BILL 14-031

BY SENATOR(S) Tochtrop, Aguilar, Guzman, Heath, Herpin, Jones, Kefalas, Kerr, Newell, Rivera, Roberts, Schwartz, Todd, Ulibarri;
 also REPRESENTATIVE(S) Rosenthal, Court, Schafer, Exum, Ginal, Hullinghorst, Labuda, Lee, Pabon, Salazar, Young.

AN ACT**CONCERNING MODIFICATIONS TO THE ADMINISTRATION OF OLD HIRE POLICE OFFICERS' AND FIREFIGHTERS' PENSION PLANS.**

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

SECTION 1. In Colorado Revised Statutes, 31-30.5-209, **amend** (4) as follows:

31-30.5-209. Idle funds. (4) (a) (I) Notwithstanding the provisions of subsections (1) and (2) of this section and subject to the provisions of paragraph (c) of this subsection (4), if no members are ~~participating~~ ACTIVE PARTICIPANTS in an employer's old hire pension plan established under this article, the governing body of the employer, by resolution, may authorize the use of the excess balance in the plan fund for the purposes permitted in subsections (1) and (2) of this section. If a governing body authorizes the use of the excess balance under this subsection (4), the employer shall maintain the plan fund at a level equal to at least two times the amount necessary to fund the benefit liabilities of any persons continuing to receive benefits from the plan fund.

(II) For purposes of this paragraph (a), "excess balance" means the amount in an old hire plan fund in excess of two times the amount necessary to fund the benefit liabilities of persons continuing to receive benefits from the plan fund, as determined by the plan's actuary. In determining the excess balance in an old hire plan fund, the actuary shall utilize the assumptions approved by the board of directors of the fire and police pension association pursuant to section 31-30.5-306 (2) (b).

(b) Notwithstanding the provisions of subsections (1) and (2) of this section and paragraph (a) of this subsection (4) and subject to the provisions of paragraph (c)

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

of this subsection (4), if no members are ~~participating~~ ACTIVE PARTICIPANTS in an employer's old hire pension plan established under this article and the plan provides no rank escalation benefit or other type of cost-of-living benefit to persons receiving benefits from the plan fund, ~~other than cost-of-living benefits provided through the annual adjustment required pursuant to paragraph (c) of this subsection (4);~~ the board, after disclosure to the affected retirees, is authorized to use the assets in the plan fund for the purpose of purchasing annuities in amounts sufficient to pay any required benefits, INCLUDING NONDISCRETIONARY COST-OF-LIVING ADJUSTMENTS REQUIRED UNDER THE PLAN, to those persons who continue to receive benefits from the plan fund. If the board purchases annuities for such persons, the governing body of the employer, by resolution, may authorize the use of any additional funds that remain in the plan fund after purchasing such annuities for the purposes permitted in subsections (1) and (2) of this section. Annuities may be purchased pursuant to this paragraph (b) only from insurance companies rated at least A+ by the A.M. Best company or rated at least AA by Standard & Poors Corporation. If there is a default on the payment of benefits resulting from an annuity purchased under this paragraph (b), the employer ~~shall remain~~ REMAINS liable to make any required benefit payments to persons for whom the annuities were purchased.

(c) ~~If a plan fund does not provide any type of cost-of-living benefit to persons receiving benefits from the plan fund, the assets in the plan fund shall be used to provide an annual adjustment to the pension benefits for such persons prior to using the excess balance in the plan fund as provided in paragraph (a) of this subsection (4) and prior to purchasing annuities as provided in paragraph (b) of this subsection (4). The minimum annual adjustment shall be calculated in the same manner as the annual adjustment to total disability benefits provided for members of the statewide death and disability plan pursuant to section 31-31-803 (6) (b) (II); except that the effective date of the benefit for purposes of the amount set forth in said section shall be the date on which the board provides the annual adjustment required under this paragraph (c)~~ MONEYS IN THE PLAN FUND IN EXCESS OF THE AMOUNT REQUIRED TO PURCHASE ANNUITIES AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), IF ANY, MAY BE USED TO PURCHASE ADDITIONAL BENEFITS OR MAY BE TREATED AS AN EXCESS BALANCE AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION (4).

SECTION 2. In Colorado Revised Statutes, 31-30.5-302, **amend** (5) as follows:

31-30.5-302. Definitions. As used in this part 3, unless the context otherwise requires:

(5) "State-assisted" means ~~receiving~~ HAVING RECEIVED state moneys relating to accrued unfunded liability. ~~pursuant to section 31-30.5-307.~~

SECTION 3. In Colorado Revised Statutes, **repeal** 31-30.5-303 as follows:

31-30.5-303. State assistance - limitation. ~~(1) On and after July 1, 1981, state assistance relating to accrued unfunded liabilities to each 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 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 3, the board shall suspend the distribution of state moneys to such pension plan.

SECTION 4. In Colorado Revised Statutes, **amend** 31-30.5-304 as follows:

31-30.5-304. Limitation on existing funds - procedures. (1) On and after January 1, 1982, every state-assisted old hire police officers' or firefighters' pension plan created pursuant to this article shall be financed in accordance with minimum funding standards prescribed in this 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 (4) and (5) of this section,~~ Annual contributions to state-assisted old hire police officers' and firefighters' pension funds shall be made ~~beginning January 1, 1982, at an annual rate~~ IN AN AMOUNT 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~~ OVER A PERIOD NOT TO EXCEED THE LESSER OF TWENTY YEARS OR THE NUMBER OF YEARS EQUAL TO THE AVERAGE REMAINING LIFE EXPECTANCY OF THE PENSION FUND'S MEMBERS PLUS the current service cost attributable to active members.

(b) ~~In each year until any state-assisted pension plan created pursuant to this article is funded on an actuarial reserve basis as required by this 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~~ IN ADDITION TO THE CONTRIBUTIONS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (2), THE EMPLOYER SHALL ANNUALLY PAY ANY REQUIRED DOLLAR AMOUNT OF CONTRIBUTIONS NECESSARY TO FUND ADDITIONAL PLAN BENEFITS ADOPTED UNDER SECTION 31-30.5-210 (2), AS ESTABLISHED BY SUPPLEMENTAL ACTUARIAL STUDIES ON SUCH FUNDS.

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

(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 old hire plan members' benefit trust fund created by section 31-31-701 (6), 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 (3.5) shall not exceed twenty-five million five hundred thousand dollars.~~

(4) A governing body providing a state-assisted old hire pension plan THAT IS REQUIRED TO CONTRIBUTE AN AMOUNT IN 2014 THAT IS LESS THAN THE CONTRIBUTION REQUIRED BY SUBSECTION (2) OF THIS SECTION BEGINNING IN 2015 AND 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 that has adopted such resolution may make AN annual contributions in accordance with the following schedules: CONTRIBUTION IN THE YEAR 2015, IN AN AMOUNT THAT IS NOT LESS THAN THE AMOUNT THAT THE MUNICIPALITY, FIRE PROTECTION DISTRICT, OR COUNTY IMPROVEMENT DISTRICT IS REQUIRED TO CONTRIBUTE IN 2014. BEGINNING IN 2016, SUCH MUNICIPALITY, FIRE PROTECTION DISTRICT, OR COUNTY IMPROVEMENT DISTRICT SHALL MAKE THE FULL AMOUNT OF THE ANNUAL CONTRIBUTION REQUIRED BY SUBSECTION (2) OF THIS SECTION.

(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:

Calendar year	Percentage	Thirty-seven-year amortization period beginning January 1
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:

Calendar	Thirty-seven-year amortization period beginning
-----------------	--

year	Percentage	January 1
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 (4) to the contrary notwithstanding, in each year until any state-assisted old hire pension plan established pursuant to this article is funded on an actuarial reserve basis as required by this 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.

(5) (a) Except as provided in paragraph (c) of this subsection (5), beginning July 1, 1995, annual employer contributions to state-assisted 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 31-30.5-306, 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 31-30.5-306 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 June 30, 2019, if annual member contributions are made as required by 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' and firefighters' pension funds shall continue at the rate established by this subsection (5) after the 2018-19 state fiscal year, if necessary, until all unfunded accrued liability in the employers' state-assisted old hire police officers' and firefighters' pension plans is eliminated and if annual state contributions are made through April 30, 2019, pursuant to section 31-30.5-307 (2).

(c) If in any year the annual state contribution to state-assisted old hire police officers' and firefighters' pension funds is less than the amount contributed under 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 (5), the employer must annually pay any required dollar amount of contributions necessary to fund additional plan benefits adopted under section 31-30.5-210 (2), as established by supplemental actuarial studies on such funds.

(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.

~~(7) (a) (I) (A) Notwithstanding any other provision of this article, no modification of any provision of 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 section 31-30.5-210 (2); but the contribution rate of the members of any state-assisted 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:~~

Calendar year	Percentage
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 part 8 of this article.~~

~~(H) 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 (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 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 (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 (7) shall prevent the implementation of 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 article 31 in accordance with said article 31.~~

(8) Every employee employed as a 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 article 31 of this title.

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

(10) ~~Notwithstanding any other provision of this section except subsection (5) of this section, the maximum annual increase in contributions to a state-assisted 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.~~

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

(12) ~~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 the employee's rate of contribution for the calendar year 1981.~~

(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.

SECTION 5. In Colorado Revised Statutes, **amend** 31-30.5-306 as follows:

31-30.5-306. Actuarial studies. (1) ~~(a) Any employer desiring to receive state assistance contributions, pursuant to section 31-30.5-307 (1) shall file An actuarial study of its EACH old hire police officers' and firefighters' pension funds with FUND ADMINISTERED BY the association not later than July 1, 1982 SHALL BE CONDUCTED NOT LATER THAN JULY 1, 2014, AND AN UPDATED ACTUARIAL STUDY SHALL BE CONDUCTED BY THE ASSOCIATION EVERY TWO YEARS THEREAFTER UNTIL THE PLAN IS TERMINATED.~~

~~(b)(I) An updated actuarial study shall be filed with the association not later than July 1, 1984, and every two years thereafter, until July 1, 2000.~~

~~(II) By September 30, 2001, and by September 30 of each year thereafter, until September 30, 2002, and by April 30, 2006, and by April 30 of each year thereafter, until April 30, 2019, or until all state-assisted old hire pension plans are fully funded, whichever comes first, an updated actuarial study shall be filed with the fire and police pension association. For the 2003-04 fiscal year and each fiscal year thereafter for which an actuarial study is filed, the actuarial study shall include a determination of the amount of the unfunded liability that may accrue as a result of the suspension of the state contribution of the old hire plan members' benefit trust fund pursuant to section 31-30.5-307 (5) (a) or the reduction of the state contribution in 2012 and 2013 pursuant to section 31-30.5-307 (2).~~

(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~~ ARE an expense of the association OLD HIRE PLAN and ~~paid for~~ THE FIRE AND POLICE PENSION ASSOCIATION IS AUTHORIZED TO PAY FOR SUCH COSTS AS PROVIDED IN SECTION 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 31-30.5-307(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 31-31-302(3).~~

SECTION 6. In Colorado Revised Statutes, **amend** 31-30.5-307 as follows:

31-30.5-307. State contribution. (1) (a) ~~Any moneys allocated for distribution 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 an old hire pension plan established pursuant to 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 31-30.5-306. Beginning in 1995 and in each state fiscal year through the 2018-19 state fiscal year, with the exception of the 2003-04 and 2004-05 state fiscal years pursuant to paragraph (a) of subsection (5) of this section and the 2008-09, 2009-10, and 2010-11 state fiscal years pursuant to subparagraph (II) of paragraph (a) of subsection (5) of this section, 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 31-30.5-304(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 31-30.5-304(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 31-30.5-304(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 June 30, 2019. If in any year the annual state contribution for unfunded liabilities is less than the amount contributed under 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 31-30.5-210(2). No money shall be distributed pursuant to this subsection (1) to an employer having rank escalation for old hire members, which is not in the association. For the purposes of this 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 old hire members who have made the irrevocable election to remain covered under the local plan, as provided in 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 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 31-31-407.

(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 (1) shall cease when the unfunded liabilities in all funds receiving such contributions are eliminated, but no later than June 30, 2019.

(d) Repealed.

(2) (a) ~~On September 30, 1995, and on September 30 of each year thereafter through 2002 and on April 30, 2006, and on April 30 of each year thereafter through 2013, the state treasurer shall transfer from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the old hire plan members' benefit trust fund created by section 31-31-701 (6), an amount equal to twenty-six million six hundred thousand dollars minus the amount transferred under section 31-30-1112 (2) (g) (1); except that, on April 30, 2012, the total amount transferred pursuant to this subsection (2) shall be five million three hundred twenty-one thousand seventy-nine dollars, and on April 30, 2013, the total amount of such transfer shall be ten million dollars. Such annual transfer to the fund under this subsection (2) shall cease when the requirements of paragraph (c) of 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 (2) as determined from the total amount of unfunded accrued liability of employers. Moneys in said fund shall~~ TRANSFERRED FROM THE STATE TREASURER AS STATE ASSISTANCE TO THE OLD HIRE PLAN MEMBERS' BENEFIT TRUST FUND SHALL not revert to the general fund but shall be ARE continuously available for the purposes provided in this part 3 and part 11 of article 30 of this title.

(b) ~~On May 31, 2013, the state treasurer shall transfer one hundred thirty-two million four hundred nine thousand three hundred thirty-nine dollars from the general fund to the old hire plan members' benefit trust fund created in section 31-31-701 (6). No other transfers FOR STATE ASSISTANCE TO THE OLD HIRE PLANS shall be made to the old hire plan members' benefit trust fund pursuant to this~~

section.

(2.5) Repealed.

(3) Except for moneys that are transferred pursuant to paragraph (b) of subsection (2) of this section, moneys transferred pursuant to this section shall be included for informational purposes in the annual 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.

(4) By October 1, 2001, and by October 1 of each year thereafter, until October 1, 2002, and by March 1, 2006, and by March 1 of each year thereafter, until March 1, 2019, or until all state-assisted old hire pension plans are fully funded, whichever comes first, the board shall determine for every state-assisted old hire pension plan whether the sum of the required state and employer contributions for the current year is greater than the amount necessary to eliminate the remaining unfunded liability of the plan. The board's determination shall be based on the previous year's actuarial studies performed pursuant to section 31-30.5-306 and the sum of the previous year's state and employer contributions. If the board determines that the sum of the required contributions for the current year is greater than the amount of remaining unfunded liability of the plan, then both the required state and employer contributions to that plan shall be in an amount proportionate to the amount respectively contributed in the previous year so that the sum of the two contributions is equal to an amount that eliminates any remaining unfunded liability.

(5) (a) (i) Notwithstanding any other provision of law, the state treasurer shall not transfer moneys to the old hire plan members' benefit trust fund pursuant to subsection (2) of this section on September 30, 2003, September 30, 2004, or September 30, 2005. The state treasurer shall resume such transfers beginning on April 30, 2006, and shall make a transfer every April 30 thereafter until 2008 pursuant to subsection (2) of this section. The transfers shall resume on April 30, 2012, pursuant to subparagraph (ii) of this paragraph (a):

(ii) Notwithstanding any other provision of law, the state treasurer shall not transfer moneys to the old hire plan members' benefit trust fund pursuant to subsection (2) of this section on April 30, 2009, April 30, 2010, or April 30, 2011. The state treasurer shall resume such transfers beginning on April 30, 2012, and shall make a transfer every April 30 thereafter until 2019 pursuant to subsection (2) of this section or until all state-assisted old hire pension plans are fully funded, whichever comes first.

(b) Notwithstanding any other provision of law, the state shall transfer to the old hire plan members' benefit trust fund any amount of unfunded liability accrued as a result of the suspension of the state contribution to the fund pursuant to paragraph (a) of this subsection (5) or the reduction of the state contribution made in 2012 and 2013 pursuant to subsection (2) of this section as determined in the actuarial study filed with the fire and police pension association pursuant to section 31-30.5-306 (1) (b) (ii). Such transfers may occur at any time until April 30, 2019.

(c) Nothing in this subsection (5) shall be construed to limit the authority of the

general assembly to evaluate the advisability of the statutory contribution to the old hire pension plans in light of its own fiscal situation.

(6) ~~If voters statewide approve a ballot issue submitted by a joint resolution of the general assembly as specified in section 24-115-110 (1) (a), C.R.S., that authorizes the state to issue notes, as defined in section 24-115-103 (8), C.R.S., and to credit note proceeds to the fire and police members' benefit investment fund created by section 31-31-301, the state obligation specified by this section shall be satisfied to the extent of the actuarial equivalency of the proceeds from the notes.~~

SECTION 7. In Colorado Revised Statutes, **amend** 31-31-701 as follows:

31-31-701. Affiliation by old hire pension plans. (1) Any employer may elect affiliation with the association relating to an old hire fire or police pension plan that it has established pursuant to article 30.5 of this title by filing with the board a resolution ~~APPROVED AS TO FORM BY THE FIRE AND POLICE PENSION ASSOCIATION AND adopted no less than nine months prior to the effective date of affiliation, unless a shorter waiting period is approved by the board BY THE EMPLOYER.~~ The effective date of affiliation ~~shall~~ **MUST** be ~~January 1 of the year following the waiting period~~ **MUTUALLY AGREED UPON BY THE EMPLOYER AND THE ASSOCIATION.**

(2) ~~Each old hire member hired by an affiliating employer shall irrevocably elect, not later than sixty days after affiliation, either to remain covered under the provisions of the old hire plan in effect on January 1, 1979, or to become covered under the provisions of the statewide defined benefit plan established by part 4 of this article. In the event an old hire member hired by an affiliating employer 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 old hire plan in effect on January 1, 1979. An old hire member who elects to become covered under the statewide defined benefit plan established by part 4 of this article shall be deemed to have waived all rights to benefits under the old hire plan but shall receive full credit for all service credited under the old hire plan, and an old hire member electing to remain covered under the old hire plan shall not be governed by the provisions of part 4 of this article relating to defined retirement benefits.~~

(3) On the effective date of affiliation pursuant to this section, the assets of the old hire pension plan shall be transferred to the trust fund created by subsection (6) of this section. ~~Such~~ **THE AMOUNT OF THE transfer shall be at** **MUST EQUAL** 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 old hire plan shall be paid by the association ~~FROM THE ASSETS OF THE PLAN.~~

(4) An eligible employer may request of the board, prior to filing a resolution of affiliation, an estimate of the employer's contribution rate necessary to comply with the contribution requirements established by subsection (5) of this section.

(5) An employer that affiliates pursuant to this section 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~~ **NOT TO EXCEED THE LESSER OF TWENTY YEARS OR THE NUMBER OF YEARS EQUAL TO THE**

AVERAGE REMAINING LIFE EXPECTANCY OF THE PENSION FUND'S MEMBERS.

(6) There is hereby created the old hire plan members' benefit trust fund that ~~shall consist~~ CONSISTS of the assets of old hire plans administered and managed by the board pursuant to this section. The board shall keep an accurate account of each such individual old hire plan.

(7) (a) THE FIRE AND POLICE PENSION ASSOCIATION HAS THE FOLLOWING RESPONSIBILITIES FOR AFFILIATED PLANS:

(I) INVESTING THE ASSETS OF THE PLAN, INCLUDING DETERMINING THE ALLOCATION OF ASSETS;

(II) COLLECTING AND ACCOUNTING FOR CONTRIBUTIONS TO THE PLAN;

(III) DISTRIBUTING BENEFITS PROVIDED UNDER THE PLAN AS DIRECTED BY THE EMPLOYER OR ITS AGENT AND ISSUING TAX FORMS AND FILING TAX REPORTS REGARDING DISTRIBUTIONS;

(IV) CONDUCTING ACTUARIAL VALUATIONS AND AUDITS OF THE PLAN AS ARE REQUIRED BY STATUTE OR BY REGULATORY BODIES;

(V) MAINTAINING RECORDS AND REPORTING THE INVESTMENTS, ASSETS, AND BENEFITS OF THE PLAN AS REQUIRED BY STATUTE OR BY REGULATORY BODIES;

(VI) AUTHORIZING THE PAYMENT OF EXPENSES OF THE PLAN FROM THE ASSETS OF THE PLAN. ANY EXPENSES THAT ARE INCURRED BY THE ASSOCIATION WHICH ARE DIRECTLY RELATED TO THE ASSOCIATION'S ADMINISTRATION OF THE PLAN SHALL BE PAID FROM THAT PLAN'S ASSETS. ANY EXPENSES THAT ARE INCURRED BY THE ASSOCIATION WHICH ARE ATTRIBUTABLE TO MORE THAN ONE PLAN ADMINISTERED BY THE ASSOCIATION SHALL BE ALLOCATED TO EACH PLAN ON AN EQUITABLE BASIS AS DETERMINED BY THE ASSOCIATION. THE ALLOCATED EXPENSE SHALL BE PAID FROM THE ASSETS OF EACH PLAN.

(VII) TAKING SUCH OTHER ACTIONS AS MAY BE ALLOWED OR REQUIRED BY STATUTE.

(b) THE LOCAL OLD HIRE PENSION BOARD HAS THE FOLLOWING RESPONSIBILITIES FOR AN AFFILIATED PLAN:

(I) ESTABLISHING ELIGIBILITY FOR AND THE AMOUNT OF BENEFITS TO BE RECEIVED BY MEMBERS AND BENEFICIARIES OF THE PLAN, INCLUDING BUT NOT LIMITED TO DETERMINATION OF BASE SALARIES, YEARS OF SERVICE UNDER THE PLAN, MARITAL STATUS, AND CONTINUING ELIGIBILITY OF MEMBERS AND SURVIVORS;

(II) MAINTAINING RECORDS OF THE TERMS AND PROVISIONS OF THE PLAN, AS THEY MAY BE ADOPTED AND AMENDED;

(III) MAKING DETERMINATIONS REGARDING BENEFIT OR COST-OF-LIVING ADJUSTMENTS AND RANK ESCALATION, IF ANY;

(IV) PERIODICALLY CERTIFYING INFORMATION REQUIRED BY THE ASSOCIATION TO ADMINISTER THE PLAN BENEFITS; AND

(V) ELECTING OPTIONS FOR THE ALLOCATION OF ASSETS, IF SUCH OPTIONS ARE PROVIDED BY THE ASSOCIATION.

SECTION 8. In Colorado Revised Statutes, 31-30.5-103, **amend** (2) (b) as follows:

31-30.5-103. Applicability. (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:

(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)~~ SECTION 31-31-701, elect to become covered under the provisions of the statewide defined benefit plan, established by article 31 of this title; and

SECTION 9. 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: March 20, 2014