

CHAPTER 15

GOVERNMENT - MUNICIPAL

HOUSE BILL 24-1042

BY REPRESENTATIVE(S) Snyder and Taggart, Hamrick, Kipp, Wilson, Amabile, Armagost, Bird, Boesenecker, Brown, Catlin, Clifford, Duran, Lieder, Lindsay, Lynch, Marshall, Martinez, Mauro, Parenti, Story, Titone, Valdez, Velasco, Weinberg, Young, McCluskie;
also SENATOR(S) Kolker and Van Winkle, Hansen, Sullivan, Exum, Mullica, Priola.

AN ACT

CONCERNING TECHNICAL CORRECTIONS TO THE STATUTES THAT GOVERN FIRE AND POLICE PENSIONS.

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

SECTION 1. In Colorado Revised Statutes, 29-5-302, **amend** (6) as follows:

29-5-302. Required benefits - conditions of receiving benefits. (6) The benefits and maximum payment amount in subsection (2) of this section are increased by the same percentage and at the same time as any fire and police pension association increase in the pension benefit paid to its members pursuant to ~~section 31-31-407, C.R.S.~~ SECTION 31-31.5-410.

SECTION 2. 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, elect to become covered under the provisions of the ~~statewide~~ defined benefit COMPONENT OF THE STATEWIDE RETIREMENT plan, established by ~~article 31~~ ARTICLE 31.5 of this title; and

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SECTION 3. In Colorado Revised Statutes, 31-30.5-209, **amend** (1) and (2) as follows:

31-30.5-209. Idle funds. (1) If the governing body of a municipality, by resolution, finds that no person named in this article is, and no such person can become, eligible for payment of a benefit from the municipality's police officers' old hire pension fund established pursuant to section 31-30.5-201 (2), it may authorize use of the money in the fund to make contributions to the defined benefit system trust fund pursuant to ~~section 31-31-402 (2)~~ PART 3 OF ARTICLE 31.5 OF THIS TITLE 31, to make contributions to a police benefit fund established pursuant to section 31-31-601 (1)(b), AS SAID SECTION EXISTED PRIOR TO ITS REPEAL, 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 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 subsection (1), contracting with the county or county sheriff for law enforcement service shall not be considered employment of a police officer.

(2) If the governing body of a municipality, fire protection district, or county improvement district, by resolution, finds that no person named in this 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 defined benefit system trust fund pursuant to ~~section 31-31-402 (2)~~ PART 3 OF ARTICLE 31.5 OF THIS TITLE 31 or to make contributions under the federal social security laws if the employer's firefighters are covered by the social security laws. In addition, any money in the fund 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.

SECTION 4. In Colorado Revised Statutes, 31-30.5-307, **amend** (1)(b)(I) as follows:

31-30.5-307. State contribution. (1) (b) (I) Each employer having rank escalation and having old hire members 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~~ SECTION 31-31.5-410.

SECTION 5. In Colorado Revised Statutes, 31-31-102, **amend** introductory portion, (4), and (6) as follows:

31-31-102. Definitions. AS used in this ~~article~~ ARTICLE 31, unless the context otherwise requires:

(4) "Member" means an active employee who is a full-time salaried employee of a municipality, fire protection district, fire authority, 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. FOR PURPOSES OF THE STATEWIDE MONEY PURCHASE PLAN, "member" also includes an active employee who works less than sixteen hundred hours per year but otherwise qualifies as a member and whose employer elects to treat all such other similar employees as members. The term does not include clerical or other personnel whose services are auxiliary to police protection, or any volunteer firefighter, as such term is defined in section 31-30-1102 (9). For the purpose of participation in the ~~statewide~~ defined benefit COMPONENT OF THE STATEWIDE RETIREMENT plan pursuant to ~~part 4 of this~~ ARTICLE 31.5 OF THIS TITLE 31 or the statewide money purchase plan pursuant to part 5 of this ~~article~~ ARTICLE 31, but not for the purpose of participation in the statewide death and disability plan pursuant to part 8 of this ~~article~~ ARTICLE 31, the term may include clerical or other personnel employed by a fire protection district, fire authority, or county improvement district, whose services are auxiliary to fire protection. For the purpose of eligibility for disability or survivor benefits, "member" includes any employee on an authorized leave of absence.

(6) "Retired member" means any member who is retired, disabled, or eligible for a benefit as provided in ~~section 31-31-404(2)~~ SECTION 31-31.5-401.

SECTION 6. In Colorado Revised Statutes, 31-31-201, **amend** (4) as follows:

31-31-201. Association - creation - board - organization - tax exemption. (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 ~~article and~~ ARTICLE 31, article 30.5, OR ARTICLE 31.5 of this ~~title~~ TITLE 31.

SECTION 7. In Colorado Revised Statutes, 31-31-202, **amend** (1)(a)(II) and (1)(d) as follows:

31-31-202. Powers and duties of the board. (1) The board shall:

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

(II) Alternative pension plans having defined benefits in whole or in part established pursuant to section 31-31-601 (1), AS SAID SECTION EXISTED PRIOR TO ITS REPEAL. Based upon such standards, the board shall require biennial actuarial reviews of such plans with the cost of the reviews to be paid by employers having established such plans.

(d) Promulgate rules relating to standards for disclosure of all ramifications of

and procedures for obtaining the member approval provided for in section 31-31-601 (1), AS SAID SECTION EXISTED PRIOR TO ITS REPEAL;

SECTION 8. In Colorado Revised Statutes, 31-31-401, **amend** (1)(c) and (1)(d) as follows:

31-31-401. Applicability of plan. (1) Every employer in this state shall provide the pension benefits of the statewide retirement plan established by part 31.5 of this title 31 for members hired on or after April 8, 1978, except for the following:

(c) Any employer that ~~has withdrawn~~ WITHDREW its members from the statewide defined benefit plan pursuant to ~~part 6 of this article 31~~ SECTION 31-31-601, AS SAID SECTION EXISTED PRIOR TO ITS REPEAL, and established a locally administered and financed alternative pension plan;

(d) Any employer that has withdrawn its members from the ~~statewide~~ defined benefit COMPONENT OF THE STATEWIDE RETIREMENT plan for the purpose of covering them under the statewide money purchase plan established pursuant to part 5 of this article 31; and

SECTION 9. In Colorado Revised Statutes, 31-31-501, **amend** (7) as follows:

31-31-501. Withdrawal into statewide money purchase plan. (7) The provisions of ~~sections 31-31-404 (1)(b) and~~ SECTION 31-31.5-411 (1)(b) 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 that has withdrawn from the statewide ~~defined benefit~~ RETIREMENT plan. Such service credit forfeited by such withdrawal may be purchased pursuant to the provisions of ~~section 31-31-403 (7) or~~ SECTION 31-31.5-310.

SECTION 10. In Colorado Revised Statutes, 31-31-808, **amend** (2) as follows:

31-31-808. Reduction of survivor benefits. (2) The benefits payable under sections 31-31-807 and 31-31-807.5 to the surviving spouse and dependent children of any member who are also receiving payments from the member's separate retirement account pursuant to ~~section 31-31-406~~ SECTIONS 31-31-412 (1)(c) AND 31-31.5-304 (2) shall be reduced by an amount that is the actuarial equivalent of the benefits such surviving spouse and dependent children receive from the separate retirement account, whether the benefits received from the account are paid on a periodic basis or in a lump sum.

SECTION 11. In Colorado Revised Statutes, 31-31-1101, **amend** (7) as follows:

31-31-1101. Entry into the fire and police pension association defined benefit system. (7) The board shall determine a continuing uniform rate of contribution for all members who are active on the effective date of coverage to fund the benefits payable by the fire and police pension association under the ~~statewide defined benefit~~ APPLICABLE COMPONENT OF THE STATEWIDE RETIREMENT plan. The continuing rate of contribution shall be determined by the board utilizing certified actuarial reports prepared by the actuary for the plan. Any actuarial report shall also certify, in accordance with accepted actuarial principals, that the employers'

coverage shall not have an adverse financial impact on the actuarial soundness of the plan. Continuing contributions for each member who is active on the effective date of coverage shall be made at the rate established on said date until the member's retirement or termination; except that the board may lower the continuing rate of contribution in the event it finds that the original continuing rate of contribution is in excess of what is required to pay the cost of benefits based on the advice of the actuary. The board may periodically adjust the rate prior to the election of coverage by an employer based on certified actuarial reports prepared by the actuary for the plan.

SECTION 12. In Colorado Revised Statutes, 31-31.5-101, **amend** (5)(f) and (5)(i) as follows:

31-31.5-101. Establishment of the statewide retirement plan - definitions.
(5) As used in this article 31.5, unless the context otherwise requires:

(f) "Member" means an active employee who is a full-time salaried employee of a municipality, fire protection district, fire authority, 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. ~~"Member" also includes an active employee who works less than sixteen hundred hours per year but otherwise qualifies as a member and whose employer elects to treat all such other similar employees as members.~~ The term does not include clerical or other personnel whose services are auxiliary to police protection, or any volunteer firefighter, as such term is defined in section 31-30-1102 (9). For the purpose of participation in the ~~statewide~~ defined benefit COMPONENT OF THE STATEWIDE RETIREMENT plan pursuant to ~~part 4 of article 31 of this title 31~~ THIS ARTICLE 31.5, or the statewide money purchase plan pursuant to part 5 of article 31 of this title 31, but not for the purpose of participation in the statewide death and disability plan pursuant to part 8 of article 31 of this title 31, the term may include clerical or other personnel employed by a fire protection district, fire authority, or county improvement district, whose services are auxiliary to fire protection. For the purpose of eligibility for disability or survivor benefits, "member" includes any employee on an authorized leave of absence.

(i) "Retired member" means any member who is retired, disabled, or eligible for a benefit as provided in ~~section 31-31-404(2)~~ SECTION 31-31.5-401.

SECTION 13. In Colorado Revised Statutes, 31-31.5-501, **amend** (2)(c) as follows:

31-31.5-501. Vesting. (2) Employer contributions made to the statewide retirement plan that are credited to the money purchase component account are subject to the following vesting rules:

(c) Except as provided in subsections (2)(a) and (2)(b) of this section, a member is vested in the employer contributions made to the money purchase component account in the amount of twenty percent for each full year of service performed for a covered department. Upon attaining five full years of service, a member is one hundred percent vested. Vesting also applies to employer contributions allocated

pursuant to section 31-31.5-301 (3) or allocated under the predecessor statewide defined benefit plan pursuant to section 31-31-405, AS IT EXISTED PRIOR TO ITS REPEAL.

SECTION 14. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: March 6, 2024