

CHAPTER 37

GOVERNMENT - LOCAL

SENATE BILL 26-039

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also REPRESENTATIVE(S) Boesenecker and Taggart, Bacon, Caldwell, Camacho, Carter, Clifford, Duran, English, Espenozo, Froelich, Gonzalez R., Hamrick, Jackson, Lieder, Lindsay, Marshall, Nguyen, Phillips, Ricks, Rutinel, Stewart K., Stewart R., Titone, Weinberg, Willford, Winter T., McCluskie.

AN ACT**CONCERNING THE ADMINISTRATION BY THE FIRE AND POLICE PENSION ASSOCIATION OF DISABILITY AND SURVIVOR BENEFITS.**

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

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments**, part 8 of article 31 of title 31 as follows:

**PART 8
DISABILITY AND SURVIVOR BENEFITS**

31-31-801. Disability and survivor benefits program design - rules.

(1) THE ASSOCIATION SHALL PROVIDE TWENTY-FOUR-HOUR, ON- AND OFF-DUTY COVERAGE.

(2) THE STATEWIDE DEATH AND DISABILITY PLAN CONSISTS OF THREE LEVELS OF DISABILITY, INCLUDING TEMPORARY OCCUPATIONAL DISABILITY, PERMANENT OCCUPATIONAL DISABILITY, AND TOTAL DISABILITY AS SPECIFIED IN THIS PART 8.

(3) THE BOARD MAY ADOPT RULES FOR THE IMPLEMENTATION, ADMINISTRATION, AND MANAGEMENT OF THE PLAN, INCLUDING FURTHER DEFINING THE STANDARDS FOR DISABILITY, THE PROCESSING OF DISABILITY APPLICATIONS, SURVIVOR BENEFITS, AND THE ADMINISTRATIVE REVIEW PROCESS.

(4) THE BOARD, AS A FIDUCIARY, MAY DELEGATE ONE OR MORE OF ITS

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.

RESPONSIBILITIES UNDER THIS PART 8 AS SPECIFIED IN SECTION 31-31-202 (1)(I) BUT SHALL MAINTAIN ITS RESPONSIBILITY FOR OVERSIGHT OF THE DELEGATION.

31-31-802. [Similar to former 31-31-801] Definitions.

AS USED IN THIS PART 8, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ASSIGNED DUTIES" MEANS THOSE SPECIFIC TASKS OR JOBS DESIGNATED BY THE EMPLOYER FOR A PARTICULAR POSITION WITHIN A JOB CLASSIFICATION. THE TERM DOES NOT INCLUDE THE DUTIES OF A MEMBER'S RANK OR GRADE THAT THE MEMBER IS NOT ACTUALLY REQUIRED TO REGULARLY PERFORM IN THE POSITION WHICH THE MEMBER OCCUPIES.

(2) "DEPENDENT CHILD" MEANS AN UNMARRIED CHILD UNDER THE AGE OF TWENTY-THREE AND INCLUDES, IF THE BOARD SO DETERMINES, ANY CHILD, REGARDLESS OF AGE OR MARITAL STATUS, WHO IS SO MENTALLY OR PHYSICALLY INCAPACITATED THAT THE CHILD CANNOT PROVIDE FOR THE CHILD'S OWN CARE. THE TERM ALSO INCLUDES A CHILD WHO IS CONCEIVED BUT UNBORN AT THE DATE OF THE MEMBER'S DEATH OR THE DATE OF DISABILITY, WHICHEVER APPLIES. ANY APPLICABLE INCREASE IN BENEFITS OCCURS UPON BIRTH.

(3) "OCCUPATIONAL DISABILITY" MEANS A DISABILITY RESULTING IN AN INCAPACITY TO PERFORM ASSIGNED DUTIES AND EXPECTED, WITH REASONABLE MEDICAL PROBABILITY, TO EXIST FOR AT LEAST ONE YEAR.

(4) "PERMANENT OCCUPATIONAL DISABILITY" MEANS AN OCCUPATIONAL DISABILITY CAUSED BY A CONDITION THAT IS PERMANENT OR DEGENERATIVE, AND FOR WHICH THERE IS NO PROGNOSIS FOR IMPROVEMENT OR RECOVERY THROUGH SURGICAL TREATMENT, COUNSELING, MEDICATION, THERAPY, OR OTHER MEANS.

(5) "STATEWIDE DEATH AND DISABILITY PLAN" OR "PLAN" MEANS THE PROGRAM CREATED IN THIS PART 8.

(6) "TEMPORARY OCCUPATIONAL DISABILITY" MEANS AN OCCUPATIONAL DISABILITY FOR WHICH THERE IS A PROGNOSIS FOR IMPROVEMENT OR RECOVERY THROUGH SURGICAL TREATMENT, COUNSELING, MEDICATION, THERAPY, OR OTHER MEANS.

(7) "TOTAL DISABILITY" MEANS INABILITY TO ENGAGE IN ANY SUBSTANTIAL GAINFUL ACTIVITY BY REASON OF A MEDICALLY DETERMINABLE PHYSICAL OR MENTAL IMPAIRMENT THAT MAY BE EXPECTED TO RESULT IN DEATH OR THAT HAS LASTED OR MAY BE EXPECTED TO LAST FOR A PERIOD OF NOT LESS THAN TWELVE MONTHS.

31-31-803. [Similar to former 31-31-802] Coverage and eligibility to apply.

(1) ANY MEMBER IS ELIGIBLE FOR THE BENEFITS PROVIDED BY THIS PART 8, WITH THE EXCEPTION OF THE FOLLOWING:

(a) ANY MEMBER WHOSE EMPLOYER COVERS THEM UNDER THE FEDERAL "SOCIAL SECURITY ACT";

(b) ANY MEMBER WHOSE EMPLOYER HAD ESTABLISHED AN EXEMPT DEFINED BENEFIT PENSION PLAN IN ACCORDANCE WITH PART 8 OF ARTICLE 30.5 OF THIS TITLE 31, ON JANUARY 1, 1980, UNLESS AN EMPLOYER IRREVOCABLY ELECTED NOT LATER THAN OCTOBER 1, 1983, TO BE SUBJECT TO THE PROVISIONS OF THIS PART 8;

(c) ANY MEMBER WHOSE EMPLOYER HAD ESTABLISHED A MONEY PURCHASE PLAN ON OR BEFORE DECEMBER 1, 1978, IN ACCORDANCE WITH THE PROVISIONS OF PART 8 OF ARTICLE 30.5 OF THIS TITLE 31; AND

(d) ANY MEMBER WHOSE EMPLOYER HAS AFFILIATED WITH THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION FOR THE PURPOSE OF ADMINISTERING RETIREMENT BENEFITS FOR ITS MEMBERS.

(2)(a) DEPARTMENTS PARTICIPATING IN A PLAN ESTABLISHED PURSUANT TO PART 4, 5, OR 11 OF THIS ARTICLE 31 OR ARTICLE 31.5 OF THIS TITLE 31 AND NOT PARTICIPATING IN THE PLAN FOR DISABILITY AND SURVIVOR BENEFITS UNDER THIS PART 8 MAY BE COVERED BY THE PROVISIONS OF THIS PART 8 IN ACCORDANCE WITH THE TERMS, CONDITIONS, AND PROCEDURES ESTABLISHED BY THE BOARD.

(b) NO WITHDRAWAL FROM COVERAGE UNDER THE DISABILITY AND SURVIVOR BENEFITS PROVISIONS OF THIS PART 8 IS PERMITTED TO TAKE EFFECT AFTER DECEMBER 31, 2001.

(c) IF AN EMPLOYER HAS WITHDRAWN UNDER THIS SUBSECTION (2), REENTRY INTO THE DISABILITY AND SURVIVOR BENEFIT PLAN PROVIDED BY THIS PART 8 IS PERMITTED ONLY ONCE, IN ACCORDANCE WITH TERMS, CONDITIONS, AND PROCEDURES ESTABLISHED BY THE BOARD.

(3) IF AN EMPLOYER THAT IS OTHERWISE REQUIRED TO ENROLL ITS MEMBERS UNDER THE PLAN FAILS TO PROPERLY ENROLL SUCH MEMBERS, NEITHER THE FIRE AND POLICE PENSION ASSOCIATION NOR THE DEATH AND DISABILITY TRUST FUND IS OBLIGATED OR LIABLE FOR ANY PURPOSE TO ANY PERSON OR EMPLOYER ARISING FROM SUCH FAILURE.

(4) (a) A MEMBER IS INELIGIBLE FOR DISABILITY RETIREMENT BENEFITS WITH RESPECT TO AN OCCUPATIONAL OR TOTAL DISABILITY THAT IS THE PROXIMATE CONSEQUENCE OR RESULT OF A PRE-EXISTING AND PERMANENT MEDICAL CONDITION.

(b) EVERY NEWLY HIRED MEMBER SHALL DISCLOSE THEIR COMPLETE HEALTH HISTORY ON THE STATEWIDE STANDARD HEALTH HISTORY FORM PROVIDED BY THE ASSOCIATION.

(c) ANY MEMBER WHO CONCEALS ANY MATERIAL FACT CONCERNING HEALTH HISTORY WHEN COMPLETING THE FORM MAY BE DISQUALIFIED FROM RECEIVING AN AWARD OF DISABILITY RETIREMENT BENEFITS UNDER THIS PART 8 IF THE ASSOCIATION DETERMINES THAT THE CONDITION CONCEALED BY THE MEMBER PROXIMATELY CAUSED THE TOTAL OR OCCUPATIONAL DISABILITY.

(5) MEMBERS WHO HAVE COVERAGE UNDER THIS SECTION ARE ELIGIBLE TO APPLY FOR DISABILITY RETIREMENT BENEFITS UNDER THIS PART 8 IF:

(a) THE ASSOCIATION RECEIVES AN APPLICATION ON THE ASSOCIATION-APPROVED FORM NO LATER THAN THREE HUNDRED SIXTY-FIVE DAYS AFTER THE LAST DAY ON THE PAYROLL UNDER WHICH DISABILITY COVERAGE UNDER THIS PART 8 IS PROVIDED.

(b) THE MEMBER IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION FROM A PLAN THAT IS PART OF THE DEFINED BENEFIT SYSTEM PURSUANT TO SECTION 31-31-204 OR A LOCAL DEFINED BENEFIT RETIREMENT PENSION PLAN;

(c) THE MEMBER HAS NOT REACHED AGE FIFTY-FIVE WITH TWENTY-FIVE YEARS OF ACCUMULATED SERVICE AS A MEMBER AND IS A PARTICIPANT UNDER THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE 31 OR UNDER A LOCAL MONEY PURCHASE PLAN; OR

(d) THE MEMBER IS NOT PARTICIPATING IN THE DEFERRED RETIREMENT OPTION PLAN ESTABLISHED PURSUANT TO 31-31.5-409.

(6) WITHIN THE APPLICATION FOR DISABILITY RETIREMENT BENEFITS, A MEMBER MAY IRREVOCABLY ELECT NOT TO BE CONSIDERED FOR REINSTATEMENT BY THEIR FORMER EMPLOYER IN THE EVENT THAT SUCH MEMBER BECOMES ELIGIBLE. ANY SUCH ELECTION TERMINATES ANY OBLIGATION FOR REINSTATEMENT BY THE EMPLOYER AS MAY BE REQUIRED BY SECTION 31-31-810 (2) OR 31-31-813.

(7) WITHIN THE APPLICATION FOR DISABILITY RETIREMENT BENEFITS, THE EMPLOYER SHALL:

(a) MAKE A STATEMENT INDICATING THE REASON FOR THE MEMBER'S SEPARATION FROM EMPLOYMENT; AND

(b) STATE ANY ADDITIONAL BASIS FOR DISABILITY UNDER THE DEATH AND DISABILITY PROGRAM THAT THE EMPLOYER BELIEVES EXISTS AND INCLUDE ANY DOCUMENTATION OF RELEVANT MEDICAL EVIDENCE. IF THE MEMBER'S DISABILITY CEASES TO EXIST AND THE MEMBER BECOMES ELIGIBLE TO BE RESTORED TO ACTIVE SERVICE PURSUANT TO SECTION 31-31-813 (2), THE ASSOCIATION MAY CONSIDER THE MEMBER FOR A CONTINUING DISABILITY WITH REGARD TO THE ADDITIONAL BASIS PROVIDED BY THE EMPLOYER. THE ASSOCIATION SHALL CONDUCT THE CONSIDERATION AS IF THE MEMBER HAD FILED AN ORIGINAL APPLICATION; EXCEPT THAT LIMITATION PERIODS UNDER SECTION 31-31-813 (2) SHALL ACCRUE FROM THE DATE OF THE ORIGINAL DISABLEMENT. IF THE MEMBER FAILS TO BE EXAMINED WITH REGARD TO THE ADDITIONAL BASIS, THE MEMBER IS ENTITLED TO NEITHER REINSTATEMENT NOR CONTINUING DISABILITY RETIREMENT BENEFITS.

(8)(a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, BENEFITS ARE NOT PAYABLE FOR ANY DISABILITY RESULTING IN WHOLE OR IN PART FROM:

(I) ADDICTION TO A CONTROLLED SUBSTANCE, THE USE OF WHICH IS PROHIBITED IN ARTICLE 18 OF TITLE 18;

(II) ENGAGING IN ANY ACT FOR WHICH THE MEMBER HAS BEEN CONVICTED OF A FELONY; OR

(III) AN INTENTIONALLY SELF-INFLICTED INJURY.

(b) AS USED IN THIS SUBSECTION (8):

(I) "ADDICTION" HAS THE SAME MEANING SET FORTH IN SECTION 12-245-801.

(II) "CONTROLLED SUBSTANCE" HAS THE SAME MEANING SET FORTH IN SECTION 18-18-102.

31-31-804. Total disability.

(1) A MEMBER WHO MEETS THE DEFINITION OF TOTAL DISABILITY, AS DEFINED BY THIS PART 8 AND THE RULES ADOPTED BY THE BOARD, IS RETIRED FROM ACTIVE SERVICE FOR DISABILITY AND IS ELIGIBLE TO RECEIVE THE DISABILITY RETIREMENT BENEFIT PROVIDED IN SUBSECTION (2) OF THIS SECTION.

(2) THE NORMAL ANNUAL DISABILITY RETIREMENT BENEFIT FOR TOTAL DISABILITY IS SEVENTY PERCENT OF THE ANNUAL BASE SALARY PAID TO THE MEMBER IMMEDIATELY PRECEDING RETIREMENT FOR DISABILITY.

31-31-805. Permanent occupational disability.

(1) A MEMBER WHO MEETS THE DEFINITION OF PERMANENTLY OCCUPATIONALLY DISABLED, AS DEFINED BY THIS PART 8 AND THE RULES ADOPTED BY THE BOARD, IS RETIRED FROM ACTIVE SERVICE FOR SUCH TIME AS THE PERMANENT OCCUPATIONAL DISABILITY CONTINUES AND IS ELIGIBLE TO RECEIVE THE DISABILITY RETIREMENT BENEFIT PROVIDED IN SUBSECTION (2) OF THIS SECTION.

(2) THE NORMAL ANNUAL DISABILITY RETIREMENT BENEFIT FOR PERMANENT OCCUPATIONAL DISABILITY IS FIFTY PERCENT OF THE ANNUAL BASE SALARY PAID TO THE MEMBER IMMEDIATELY PRECEDING RETIREMENT FOR DISABILITY.

(3) THE ASSOCIATION MAY REQUIRE MEMBERS WHO ARE RECEIVING A PERMANENT OCCUPATIONAL DISABILITY RETIREMENT BENEFIT PURSUANT TO THIS SECTION TO PARTICIPATE IN REHABILITATION AND RETRAINING PROGRAMS AS THE ASSOCIATION DEEMS APPROPRIATE.

31-31-806. Retirement options for members receiving a total or permanent occupational disability retirement benefit.

A MEMBER ELIGIBLE FOR THE NORMAL ANNUAL DISABILITY RETIREMENT BENEFIT FOR TOTAL DISABILITY OR PERMANENT OCCUPATIONAL DISABILITY MAY ELECT TO RECEIVE THE NORMAL ANNUAL DISABILITY RETIREMENT BENEFIT OR A REDUCED BENEFIT UNDER ONE OF THE OPTIONS ADOPTED BY THE BOARD THROUGH RULE, WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF THE NORMAL DISABILITY RETIREMENT BENEFIT.

31-31-807. [Similar to former 31-31-803 (2.2)] Temporary occupational disability.

(1) A MEMBER WHO MEETS THE DEFINITION OF TEMPORARILY OCCUPATIONALLY DISABLED, AS DEFINED BY THIS PART 8 AND THE RULES ADOPTED BY THE BOARD, IS RETIRED FROM ACTIVE SERVICE FOR SUCH TIME AS THE TEMPORARY OCCUPATIONAL

DISABILITY CONTINUES FOR A PERIOD UP TO FIVE YEARS FROM THE DATE OF ORIGINAL DISABLEMENT AND IS ELIGIBLE TO RECEIVE THE DISABILITY RETIREMENT BENEFIT PROVIDED IN THIS SECTION.

(2) THE ANNUAL DISABILITY RETIREMENT BENEFIT FOR TEMPORARY OCCUPATIONAL DISABILITY IS FORTY PERCENT OF THE ANNUAL BASE SALARY BEING PAID TO THE MEMBER IMMEDIATELY PRECEDING RETIREMENT FOR DISABILITY.

(3) A MEMBER FOUND TO HAVE A TEMPORARY OCCUPATIONAL DISABILITY IS SUBJECT TO REEXAMINATION AT SUCH TIMES AND IN SUCH MANNER AS THE ASSOCIATION MAY DIRECT. THE ASSOCIATION MAY REQUIRE TREATMENT, COUNSELING, OR THERAPY NECESSARY TO REHABILITATE THE MEMBER FOR RETURN TO WORK. AT THE TIME OF REEXAMINATION, A MEMBER WITH A TEMPORARY DISABILITY SHALL PROVIDE EVIDENCE OF COMPLIANCE WITH THE REQUIREMENTS ESTABLISHED BY THE ASSOCIATION. THE ASSOCIATION MAY TERMINATE BENEFITS IF THE MEMBER FAILS TO MAKE REHABILITATION EFFORTS, FAILS TO COMPLY WITH THE TREATMENT PLAN, OR FAILS TO PROVIDE EVIDENCE OF A CONTINUING DISABILITY.

(4) A MEMBER WHO REMAINS DISABLED MAY APPLY FOR AN UPGRADE TO PERMANENT OCCUPATIONAL DISABILITY OR TO TOTAL DISABILITY NO LATER THAN SIX MONTHS PRIOR TO THE END OF FIVE YEARS FROM THE DATE OF ORIGINAL DISABLEMENT. THE ASSOCIATION MAY UPGRADE A MEMBER TO A PERMANENT OCCUPATIONAL DISABILITY UPON A FINDING BY THE ASSOCIATION THAT THE MEMBER MEETS THE DEFINITION OF PERMANENT OCCUPATIONAL DISABILITY. THE ASSOCIATION MAY UPGRADE A MEMBER TO A TOTAL DISABILITY UPON A FINDING BY THE ASSOCIATION THAT THE MEMBER MEETS THE DEFINITION OF TOTAL DISABILITY. AFTER THE FIVE-YEAR PERIOD, BENEFITS CEASE UNLESS THE MEMBER HAS BEEN UPGRADED TO EITHER PERMANENT OCCUPATIONAL DISABILITY OR TOTAL DISABILITY.

(5) A MEMBER WHO IS ON TEMPORARY OCCUPATIONAL DISABILITY IS NOT ENTITLED TO ANY COST OF LIVING ADJUSTMENT.

31-31-808. [Similar to former 31-31-803 (2)] Disability prior to October 1, 2002.

(1) A MEMBER WHO BECOMES OCCUPATIONALLY DISABLED AND WAS AWARDED DISABILITY PRIOR TO OCTOBER 1, 2002, IS RETIRED FROM ACTIVE SERVICE FOR SUCH TIME AS THE OCCUPATIONAL DISABILITY CONTINUES AND IS ELIGIBLE TO RECEIVE THE DISABILITY RETIREMENT BENEFIT PROVIDED BY SUBSECTION (2) OF THIS SECTION.

(2) THE ANNUAL DISABILITY RETIREMENT BENEFIT FOR OCCUPATIONAL DISABILITY FOR A MEMBER WHO IS RETIRED PURSUANT TO SUBSECTION (1) OF THIS SECTION IS THIRTY PERCENT OF THE ANNUAL BASE SALARY PAID TO THE MEMBER IMMEDIATELY PRECEDING RETIREMENT FOR DISABILITY. THE BENEFIT IS INCREASED BY:

(a) TEN PERCENT OF THE ANNUAL BASE SALARY IF THE MEMBER HAD A SPOUSE AT THE TIME OF BECOMING OCCUPATIONALLY DISABLED, FOR SO LONG AS SUCH SPOUSE SURVIVES AND IS MARRIED TO THE MEMBER OR IS LEGALLY ENTITLED TO MAINTENANCE FROM THE MEMBER IN AN AMOUNT EQUAL TO OR GREATER THAN THE

AMOUNT OF THE INCREASE IN THE BENEFIT AUTHORIZED BY THIS SUBSECTION (2)(a). IF THE AMOUNT OF MAINTENANCE IS LESS THAN THE AMOUNT OF THE INCREASE IN THE BENEFIT AUTHORIZED BY THIS SUBSECTION (2)(a), THE BENEFIT IS INCREASED BY AN AMOUNT EQUAL TO THE AMOUNT OF THE MAINTENANCE; EXCEPT THAT, FOR ANY MEMBER WHO IS RECEIVING THE BENEFIT AUTHORIZED BY THIS SUBSECTION (2)(a) AND WHO BECOMES LEGALLY REQUIRED TO PAY MAINTENANCE PRIOR TO JUNE 1, 2001, THE AMOUNT OF THE BENEFIT IS TEN PERCENT OF THE ANNUAL BASE SALARY.

(b) TEN PERCENT OF THE ANNUAL BASE SALARY IF SUCH MEMBER HAS ANY DEPENDENT CHILDREN.

31-31-809. [Similar to former 31-31-806.5] Disability retirement benefits - on-duty.

(1) THE ASSOCIATION SHALL DETERMINE WHETHER THE DISABILITY IS THE RESULT OF AN INJURY INCURRED WHILE PERFORMING OFFICIAL DUTIES OR AN OCCUPATIONAL DISEASE ARISING OUT OF AND IN THE COURSE OF THE MEMBER'S EMPLOYMENT. AN ON-DUTY DETERMINATION DOES NOT CHANGE THE BENEFIT AMOUNT AWARDED.

(2) THE BOARD SHALL ADOPT RULES THAT SPECIFY STANDARDS FOR DETERMINING WHETHER A MEMBER'S DISABILITY IS THE RESULT OF AN INJURY INCURRED WHILE PERFORMING OFFICIAL DUTIES OR AN OCCUPATIONAL DISEASE ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT AND THAT ESTABLISH PROCEDURES FOR MAKING SUCH DETERMINATION.

(3) THE DETERMINATIONS MADE BY THE ASSOCIATION PURSUANT TO THIS SUBSECTION (3) SHALL BE MADE SOLELY ON THE BASIS OF THE MEDICAL EVIDENCE THAT WAS PREVIOUSLY SUBMITTED IN CONNECTION WITH THE MEMBER'S APPLICATION FOR DISABILITY AND OTHER RELEVANT EVIDENCE THAT IS CONTEMPORANEOUS IN TIME WITH THE TERMINATION OF THE MEMBER'S EMPLOYMENT.

31-31-810. Disability decisions and appeals.

(1) (a) THE ASSOCIATION MAKES THE DETERMINATION OF DISABILITY, WHETHER THE DISABILITY IS OCCUPATIONAL OR TOTAL, WHETHER THE DISABLING CONDITION IS ON-DUTY, AND THE AMOUNT OF THE DISABILITY RETIREMENT BENEFIT. THE ASSOCIATION MAY CONSIDER ANY EVIDENCE IT DEEMS RELEVANT IN MAKING THE DETERMINATION, INCLUDING REPORTS MADE BY PHYSICIANS, WHO MAY BE APPOINTED UPON THE RECOMMENDATION OF A MEDICAL ADVISOR WITH WHOM THE BOARD SHALL CONTRACT TO PROVIDE ADVISORY SERVICES.

(b) THE ASSOCIATION MAY REQUEST THAT ANY PHYSICIAN APPOINTED TO EXAMINE THE DISABILITY APPLICANT ALSO PROVIDE AN OPINION AS TO WHETHER THE APPLICANT'S INJURY WAS RECEIVED WHILE PERFORMING OFFICIAL DUTIES OR WHETHER THE APPLICANT'S OCCUPATIONAL DISEASE AROSE OUT OF AND IN THE COURSE OF THE APPLICANT'S EMPLOYMENT. THE ASSOCIATION MAY INVESTIGATE CLAIMS AT THE TIME OF INITIAL APPLICATION FOR BENEFITS OR SUBSEQUENT TO AN AWARD OF BENEFITS TO DETERMINE ELIGIBILITY OR CONTINUING ELIGIBILITY FOR SUCH BENEFITS. THE ASSOCIATION MAY APPOINT INVESTIGATORS AND OTHER PERSONNEL AS NECESSARY TO CARRY OUT THIS FUNCTION.

(c) AN APPLICANT MAY APPEAL THE DECISIONS MADE BY THE ASSOCIATION PURSUANT TO THIS SUBSECTION (1) THROUGH THE ADMINISTRATIVE REVIEW PROCEDURES SET FORTH IN THE RULES ADOPTED BY THE BOARD. A FINAL DECISION FROM THE ASSOCIATION CAN ONLY BE REVIEWED BY PROPER COURT ACTION SUBJECT TO RULE 106 (a)(4) OF THE COLORADO RULES OF CIVIL PROCEDURE.

(d) IN CONNECTION WITH THIS SUBSECTION (1), THE BOARD:

(I) MAY APPOINT HEARING OFFICERS TO CONDUCT HEARINGS ON ANY ISSUE RELATING TO AN APPLICANT'S DISABILITY; AND

(II) MAY ADOPT RULES TO ESTABLISH A PROCESS FOR THE ADMINISTRATIVE REVIEW OF DISABILITY APPLICATIONS, INCLUDING STANDARDS OF REVIEW FOR THE APPLICATIONS, WITHOUT BOARD REVIEW.

(2) IF THE ASSOCIATION DETERMINES THAT AN APPLICANT FOR DISABILITY IS NOT DISABLED AND THE APPLICANT IS ON SICK LEAVE, DISABILITY LEAVE, OR OTHER TYPE OF LEAVE OF ABSENCE, IS SERVING IN A TEMPORARY POSITION PENDING THE DETERMINATION OF AN APPLICATION, OR HAS BEEN TERMINATED FROM EMPLOYMENT BY THE EMPLOYER ON THE BASIS OF AN ALLEGED DISABILITY, THE EMPLOYER SHALL REINSTATE THE APPLICANT TO ACTIVE SERVICE IN THE SAME POSITION THE APPLICANT HELD PRIOR TO THE COMMENCEMENT OF SUCH LEAVE, ASSIGNMENT TO A TEMPORARY POSITION, OR TERMINATION. IF THE EMPLOYER REFUSES TO REINSTATE THE APPLICANT TO THE APPLICANT'S PRIOR POSITION, THE EMPLOYER SHALL THEREAFTER PAY BENEFITS TO THE APPLICANT AS IF THE APPLICANT HAD BEEN DETERMINED OCCUPATIONALLY DISABLED BY THE ASSOCIATION. THE EMPLOYER SHALL CONTINUE TO PAY SUCH BENEFITS UNTIL THE APPLICANT IS REINSTATED TO THE APPLICANT'S PRIOR POSITION OR DECLINES AN OFFER OF REINSTATEMENT.

(3) A MEMBER WHOSE DISABILITY RETIREMENT BENEFITS CEASE AND WHO IS NOT RESTORED TO ACTIVE SERVICE OR A MEMBER WHO ELECTS TO TERMINATE THEIR DISABILITY RETIREMENT BENEFITS IS ENTITLED TO:

(a) ANY VESTED BENEFIT EARNED THROUGH THEIR YEARS OF SERVICE PRIOR TO BECOMING DISABLED, PAYABLE AT NORMAL RETIREMENT AGE; OR

(b) A REFUND OF THE MEMBER'S CONTRIBUTIONS IF NO BENEFIT IS VESTED.

31-31-811. [Similar to former 31-31-803 (6)] Cost of living adjustments.

(1) COST OF LIVING ADJUSTMENTS PAYABLE UNDER THE STATEWIDE DEATH AND DISABILITY PLAN ESTABLISHED IN THIS PART 8 ARE PAID EFFECTIVE OCTOBER 1 EACH YEAR, AND THE REDETERMINED AMOUNT OF THE BENEFIT IS PAYABLE FOR THE FOLLOWING TWELVE MONTHS. TO BE ELIGIBLE FOR A COST OF LIVING ADJUSTMENT, RETIREMENT BENEFITS SHALL HAVE BEEN PAID FOR AT LEAST TWELVE CALENDAR MONTHS PRIOR TO THE EFFECTIVE DATE OF THE COST OF LIVING ADJUSTMENT.

(2) (a) FOR THE COST OF LIVING ADJUSTMENT OF PERMANENT OCCUPATIONAL DISABILITY RETIREMENT BENEFITS, THE AMOUNT OF THE BENEFIT ON THE EFFECTIVE DATE OF THE BENEFIT IS INCREASED BY A PERCENTAGE TO BE DETERMINED BY THE

BOARD BUT NOT MORE THAN THREE PERCENT FOR EACH FULL YEAR CONTAINED IN THE PERIOD COMMENCING WITH THE EFFECTIVE DATE OF THE BENEFIT AND ENDING WITH THE EFFECTIVE DATE OF THE COST OF LIVING ADJUSTMENT.

(b) FOR THE COST OF LIVING ADJUSTMENT OF TOTAL DISABILITY RETIREMENT BENEFITS, THE AMOUNT OF THE BENEFIT ON THE EFFECTIVE DATE OF THE BENEFIT IS INCREASED BY THREE PERCENT FOR EACH FULL YEAR CONTAINED IN THE PERIOD COMMENCING WITH THE EFFECTIVE DATE OF THE BENEFIT AND ENDING WITH THE EFFECTIVE DATE OF THE COST OF LIVING ADJUSTMENT. IN THE CASE OF A MEMBER CHANGING STATUS FROM OCCUPATIONAL DISABILITY TO TOTAL DISABILITY, THE THREE PERCENT COST OF LIVING ADJUSTMENT BEGINS WITH THE EFFECTIVE DATE OF THE BENEFIT AND THERE IS NO RETROACTIVE COST OF LIVING ADJUSTMENT APPLIED TO THE BENEFIT FOR ANY PERIOD THAT THE MEMBER WAS RECEIVING AN OCCUPATIONAL DISABILITY BENEFIT.

(3) THE COST OF THE ADJUSTMENT OF BENEFITS PROVIDED BY THIS SECTION IS FUNDED IN THE SAME MANNER AS OTHER BENEFITS ESTABLISHED BY THIS PART 8.

31-31-812. [Similar to former 31-31-804] Reduction of disability retirement benefits.

(1)(a) THE BENEFITS PAYABLE PURSUANT TO THIS PART 8 TO ANY MEMBER WHO IS AWARDED AN OCCUPATIONAL DISABILITY BENEFIT PRIOR TO OCTOBER 1, 2002, A TOTAL DISABILITY BENEFIT, OR WHO IS PERMANENTLY OCCUPATIONALLY DISABLED AND WHO IS ALSO ELIGIBLE TO RECEIVE PAYMENTS FROM THE MEMBER'S INDIVIDUAL ACCOUNT PURSUANT TO PART 5 OF ARTICLE 31.5 OF THIS TITLE 31 OR A SIMILAR PROVISION IN A LOCAL PENSION PLAN IS REDUCED BY AN AMOUNT THAT IS THE ACTUARIAL EQUIVALENT OF THE BENEFITS SUCH MEMBER IS ELIGIBLE TO RECEIVE FROM THE SEPARATE RETIREMENT ACCOUNT, WHETHER THE BENEFITS RECEIVED FROM THE ACCOUNT ARE PAID ON A PERIODIC BASIS OR IN A LUMP SUM.

(b) THE BENEFITS PAYABLE PURSUANT TO THIS PART 8 TO ANY MEMBER WHO IS AWARDED A TOTAL DISABILITY BENEFIT OR WHO IS PERMANENTLY OCCUPATIONALLY DISABLED AND WHO IS ALSO ELIGIBLE TO RECEIVE A DEFINED BENEFIT FROM A STATEWIDE OR LOCAL PENSION PLAN IS REDUCED BY THE AMOUNT OF THE DEFINED BENEFIT.

(c) ANY DISABILITY RETIREMENT BENEFIT PROVIDED PURSUANT TO THIS PART 8 IS REDUCED BY THE PRO RATA AMOUNT OF ANY SOCIAL SECURITY BENEFIT RECEIVED BY THE MEMBER ATTRIBUTABLE TO THE MEMBER'S QUARTERS OF SOCIAL SECURITY COVERAGE DERIVED FROM EMPLOYMENT AS A MEMBER.

(d) ANY MEMBER RECEIVING AN OCCUPATIONAL DISABILITY BENEFIT PURSUANT TO THIS PART 8 AND A SOCIAL SECURITY BENEFIT ATTRIBUTABLE TO THE MEMBER'S QUARTERS OF SOCIAL SECURITY COVERAGE DERIVED FROM EMPLOYMENT AS A MEMBER SHALL FILE AN ANNUAL REPORT CONCERNING ANY SOCIAL SECURITY INCOME. IF SUCH MEMBER KNOWINGLY FAILS TO FILE SUCH REPORT OR FILES A FRAUDULENT REPORT, THE DISABILITY RETIREMENT BENEFIT IS DISCONTINUED.

(2) THE BENEFITS PAYABLE PURSUANT TO THIS PART 8 TO ANY MEMBER WHO IS OCCUPATIONALLY DISABLED PRIOR TO OCTOBER 1, 2002, IS PERMANENTLY

OCCUPATIONALLY DISABLED, OR WHO IS TOTALLY DISABLED AND WHO AT THE TIME OF THE AWARD OF SUCH BENEFITS IS A MEMBER OF A MONEY PURCHASE PLAN PURSUANT TO THIS ARTICLE 31 OR ARTICLE 30.5 OF THIS TITLE 31, INCLUDING ANY DEPARTMENT CHIEF, WHO AT THE TIME OF THE AWARD OF SUCH BENEFITS HAS BEEN EXEMPTED FROM THE STATEWIDE RETIREMENT PLAN AS PERMITTED BY SECTION 31-31.5-203, IS REDUCED BY AN AMOUNT THAT IS THE ACTUARIAL EQUIVALENT OF THE BENEFITS SUCH MEMBER RECEIVES FROM ANY SUCH MONEY PURCHASE PLAN, WHETHER THE BENEFITS RECEIVED FROM THE MONEY PURCHASE PLAN ARE PAID ON A PERIODIC BASIS OR IN A LUMP SUM. A REDUCTION SHALL NOT EXCEED THE ACTUARIAL EQUIVALENT OF MONEY PURCHASE PLAN BENEFITS IF SUCH BENEFITS HAD BEEN FUNDED AT THE SAME RATE OF CONTRIBUTIONS SPECIFIED IN SECTION 31-31.5-301.

31-31-813. [Similar to former 31-31-805] Change in disability status - reexamination.

(1) AT ANY TIME THAT A TOTAL DISABILITY CEASES TO EXIST, BASED UPON PERIODIC REEXAMINATION AS MAY BE REQUIRED BY THE ASSOCIATION OR BASED UPON OTHER EVIDENCE OF ABILITY TO ENGAGE IN SUBSTANTIAL GAINFUL ACTIVITY, A MEMBER RETIRED FOR SUCH DISABILITY SHALL BE DECLARED PERMANENTLY OCCUPATIONALLY DISABLED, AND THE BENEFITS PROVIDED BY SECTION 31-31-804 ARE REDUCED TO THE LEVEL PROVIDED IN SECTION 31-31-805.

(2) (a) AT ANY TIME THAT AN OCCUPATIONAL DISABILITY CEASES TO EXIST, BASED UPON PERIODIC REEXAMINATION AS MAY BE REQUIRED BY THE ASSOCIATION, A MEMBER RETIRED FOR SUCH DISABILITY MAY BE RESTORED TO ACTIVE SERVICE, AND THE BENEFITS ARE DISCONTINUED. THE MEMBER SHALL BE RESTORED TO ACTIVE SERVICE BY THE MEMBER'S FORMER EMPLOYER IF A VACANCY EXISTS IN THE SAME POSITION THE MEMBER HELD PRIOR TO RETIREMENT, OR IF THERE IS A POSITION OF EQUAL BASE PAY AVAILABLE, OR IF THE MEMBER AGREES TO ACCEPT ANOTHER AVAILABLE POSITION THAT MAY NOT BE THE SAME OR OF EQUAL BASE PAY TO THE MEMBER'S FORMER POSITION.

(b) IF THE POSITION TO WHICH THE MEMBER WILL BE RESTORED REQUIRES, AS A MATTER OF STATE LAW, THAT THE MEMBER MAINTAIN ANY TYPE OF STATE CERTIFICATION, THE EMPLOYER NEED NOT RESTORE THE MEMBER TO SUCH POSITION IF THE MEMBER DOES NOT HAVE THE NECESSARY CERTIFICATION OR THE MEMBER'S CERTIFICATION HAS OTHERWISE LAPSED, EXPIRED, OR BEEN REVOKED. THE EMPLOYER, HOWEVER, MUST AFFORD THE MEMBER AN OPPORTUNITY TO ATTAIN CERTIFICATION, RECERTIFICATION, OR REACTIVATION OF AN EXISTING CERTIFICATION AND MUST HOLD OPEN ANY POSITION THAT THE MEMBER HAS AGREED TO ACCEPT PURSUANT TO THIS SUBSECTION (2) FOR A PERIOD NOT TO EXCEED ONE YEAR. THE BOARD IS DIRECTED TO EVALUATE THE IMPACT OF THIS REQUIREMENT ON EMPLOYERS OF ASSOCIATION MEMBERS. THE ONE-YEAR PERIOD MAY EXTEND BEYOND THE FIVE-YEAR LIMITATION SET FORTH IN SUBSECTION (2)(f) OF THIS SECTION, AS LONG AS THE OPENING OCCURS WITHIN THE FIVE-YEAR PERIOD. DISABILITY RETIREMENT BENEFITS WILL BE CONTINUED DURING ANY PERIOD, NOT TO EXCEED ONE YEAR, THAT THE MEMBER IS ATTEMPTING TO ATTAIN CERTIFICATION, RECERTIFICATION, OR REACTIVATION.

(c) IF, AT THE TIME OF A FINDING BY THE ASSOCIATION THAT A MEMBER'S

OCCUPATIONAL DISABILITY HAS CEASED TO EXIST, THERE IS NO OPENING IN THE SAME POSITION THE MEMBER HELD PRIOR TO RETIREMENT OR ONE OF EQUAL BASE PAY AND THERE IS NO OPENING IN A POSITION OF LESSER BASE PAY THAT THE MEMBER AGREES TO ACCEPT, THE ASSOCIATION MAY ORDER THE MEMBER TO PROCEED WITH ANY NECESSARY TRAINING IN ORDER TO ATTAIN, REINSTATE, OR REACTIVATE ANY CERTIFICATION REQUIRED FOR THE POSITION FROM WHICH THE MEMBER RETIRED. DISABILITY RETIREMENT BENEFITS ARE CONTINUED DURING THE TRAINING PERIOD UP TO A MAXIMUM OF ONE YEAR.

(d) IF THE MEMBER REFUSES TO TAKE THE STEPS NECESSARY TO ATTAIN CERTIFICATION, RECERTIFICATION, OR REACTIVATION AS REQUIRED BY SUBSECTIONS (2)(b) AND (2)(c) OF THIS SECTION, OR IF AT THE END OF THE ONE-YEAR LIMITATION ON ATTAINING CERTIFICATION, RECERTIFICATION, OR REACTIVATION THE MEMBER HAS NOT ATTAINED THE NECESSARY CERTIFICATION, RECERTIFICATION, OR REACTIVATION, DISABILITY RETIREMENT BENEFITS ARE DISCONTINUED, AND THE EMPLOYER IS RELIEVED OF FURTHER OBLIGATIONS PURSUANT TO THIS SUBSECTION (2).

(e) IF A MEMBER REFUSES TO ACCEPT THE SAME OR A POSITION OF EQUAL BASE PAY, THE DISABILITY RETIREMENT BENEFITS ARE DISCONTINUED, BUT A MEMBER SHALL NOT LOSE BENEFITS IF THERE IS NO SUCH VACANCY OR IF THE MEMBER REFUSES TO ACCEPT A POSITION THAT IS NOT THE SAME OR OF EQUAL BASE PAY TO THE MEMBER'S FORMER POSITION, OR IF THE EMPLOYER REFUSES TO RESTORE THE MEMBER TO ACTIVE SERVICE, EXCEPT AS PROVIDED PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION.

(f) IF THE ASSOCIATION DETERMINES THAT A DISABILITY CEASES TO EXIST, AND IF NO APPROPRIATE VACANCY IS AVAILABLE AT THAT TIME, THE MEMBER HAS THE FIRST RIGHT OF REFUSAL TO FILL A VACANCY IF IT OCCURS WITHIN FIVE YEARS FROM THE DATE OF ORIGINAL DISABLEMENT. IF AN OCCUPATIONAL DISABILITY IS BASED ON A MEDICAL DETERMINATION OF MENTAL IMPAIRMENT OR DISEASE, THE ASSOCIATION MUST DETERMINE, THAT THE OCCUPATIONAL DISABILITY CEASES TO EXIST BEFORE THE MEMBER IS GRANTED A FIRST RIGHT OF REFUSAL.

(g) AT LEAST THIRTY DAYS PRIOR TO MAKING ITS DETERMINATION, THE ASSOCIATION SHALL PROVIDE WRITTEN NOTICE TO THE EMPLOYER AND MEMBER OF THE OPPORTUNITY FOR A HEARING, UPON REQUEST OF THE EMPLOYER OR MEMBER. IF A HEARING IS REQUESTED, THE ASSOCIATION SHALL PROVIDE THE EMPLOYER WITH COPIES OF ANY MEDICAL REPORTS PREPARED BY THE PHYSICIANS WITH RESPECT TO ANY EXAMINATION OR REEXAMINATION OF THE MEMBER. NEITHER THE EMPLOYER, THE AGENTS OF THE EMPLOYER, INCLUDING ANY PHYSICIAN RETAINED TO REVIEW SUCH REPORTS, NOR THE ASSOCIATION SHALL RELEASE SUCH REPORTS TO ANY OTHER PERSON EXCEPT AS OTHERWISE ALLOWED IN SECTION 24-72-204 (3)(a)(I).

(h) IF THE MEMBER REFUSES A VACANCY IN THE SAME POSITION THE MEMBER HELD PRIOR TO RETIREMENT OR IN A POSITION OF EQUAL BASE PAY TO THE MEMBER'S FORMER POSITION, THE DISABILITY RETIREMENT BENEFITS ARE DISCONTINUED. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2), IF THE EMPLOYER REFUSES TO ALLOW A MEMBER WHO EXERCISES SUCH FIRST RIGHT OF REFUSAL TO FILL THE VACANCY, THE EMPLOYER SHALL THEREAFTER PAY THE COST OF THE BENEFITS.

(i) WHEN A TEMPORARY OCCUPATIONAL DISABILITY CEASES TO EXIST AND THE MEMBER IS RESTORED TO ACTIVE SERVICE WITH THE MEMBER'S EMPLOYER, A TRANSFER WILL BE MADE FROM THE STATEWIDE DEATH AND DISABILITY PLAN TO THE MEMBER'S NORMAL RETIREMENT PLAN IN THE AMOUNT OF THE MONTHLY EMPLOYER AND EMPLOYEE CONTRIBUTIONS BEING MADE TO THE MEMBER'S PENSION PLAN AT THE TIME OF DISABILITY BUT NOT MORE THAN SIXTEEN PERCENT OF THE MONTHLY BASE SALARY THAT THE MEMBER WAS BEING PAID AT THE TIME OF DISABILITY RETIREMENT, MULTIPLIED BY THE NUMBER OF MONTHS THE MEMBER RECEIVED TEMPORARY OCCUPATIONAL DISABILITY RETIREMENT BENEFITS. THE MEMBER WILL RECEIVE SERVICE CREDIT FOR SUCH TRANSFER. A RESTORED MEMBER OF A LOCAL PLAN THAT HAS A CONTRIBUTION RATE IN EXCESS OF SIXTEEN PERCENT SHALL HAVE THE DIFFERENCE BETWEEN THE AMOUNT TRANSFERRED AND THE AMOUNT THAT WOULD HAVE BEEN CONTRIBUTED AT THE EXCESS RATE, MADE UP BY AN ADDITIONAL CONTRIBUTION FROM THE EMPLOYER.

(3) WHEN A MEMBER ON TEMPORARY OCCUPATIONAL DISABILITY SATISFIES THE AGE AND SERVICE REQUIREMENTS FOR A NORMAL RETIREMENT, INCLUDING THE TIME THE MEMBER WAS ON TEMPORARY OCCUPATIONAL DISABILITY, A TRANSFER IS MADE FROM THE STATEWIDE DEATH AND DISABILITY PLAN TO THE MEMBER'S NORMAL RETIREMENT PLAN IN THE AMOUNT OF THE MONTHLY EMPLOYER AND EMPLOYEE CONTRIBUTIONS BEING MADE TO THE MEMBER'S PENSION PLAN AT THE TIME OF DISABILITY BUT NOT MORE THAN SIXTEEN PERCENT OF THE MONTHLY BASE SALARY THAT THE MEMBER WAS BEING PAID AT THE TIME OF DISABILITY MULTIPLIED BY THE NUMBER OF MONTHS THE MEMBER RECEIVED TEMPORARY OCCUPATIONAL DISABILITY RETIREMENT BENEFITS. A MEMBER OF A STATEWIDE OR LOCAL RETIREMENT PLAN THAT HAS A MANDATORY CONTRIBUTION RATE IN EXCESS OF SIXTEEN PERCENT SHALL HAVE THE DIFFERENCE BETWEEN THE AMOUNT TRANSFERRED AND THE AMOUNT THAT WOULD HAVE BEEN CONTRIBUTED AT THE EXCESS RATE MADE UP BY AN ADDITIONAL CONTRIBUTION FROM THE EMPLOYER. THE MEMBER SHALL THEN BE GRANTED A NORMAL RETIREMENT UNDER THE MEMBER'S RETIREMENT PLAN AND THE TEMPORARY OCCUPATIONAL DISABILITY RETIREMENT BENEFITS UNDER THE STATEWIDE DEATH AND DISABILITY PLAN SHALL TERMINATE.

(4) WITHIN FIVE YEARS FROM THE DATE OF A FINDING OF OCCUPATIONAL DISABILITY PURSUANT TO SUBSECTION (1) OF THIS SECTION OR FROM THE DATE OF ORIGINAL DISABLEMENT PURSUANT TO SECTION 31-31-805, 31-31-807, OR 31-31-808, A MEMBER RETIRED FOR SUCH DISABILITY MAY BE DECLARED TOTALLY DISABLED BASED UPON PERIODIC REEXAMINATION AS ORDERED BY THE ASSOCIATION IN ITS DISCRETION. IF THE MEMBER IS DECLARED TOTALLY DISABLED, THE BENEFITS PROVIDED BY SECTION 31-31-805, 31-31-807, OR 31-31-808 ARE INCREASED TO THE LEVEL PROVIDED IN SECTION 31-31-804. COST OF LIVING ADJUSTMENTS ARE PAID PROSPECTIVELY IN ACCORDANCE WITH SECTION 31-31-811.

31-31-814. [Similar to former 31-31-806] Disqualification upon reemployment.

IF, SUBSEQUENT TO DISABILITY RETIREMENT BENEFITS BEING AWARDED TO A MEMBER PURSUANT TO THIS PART 8, BUT PRIOR TO A DECISION OF THE ASSOCIATION THAT AN OCCUPATIONAL DISABILITY CEASES TO EXIST, A MEMBER IS EMPLOYED OR REEMPLOYED IN THIS STATE OR ANY OTHER JURISDICTION, PURSUANT TO EITHER AN

AGREEMENT OR COURT ORDER, IN A FULL-TIME SALARIED POSITION THAT NORMALLY INVOLVES WORKING AT LEAST ONE THOUSAND SIX HUNDRED HOURS IN ANY GIVEN CALENDAR YEAR AND THE DUTIES OF WHICH ARE DIRECTLY INVOLVED WITH THE PROVISION OF POLICE OR FIRE PROTECTION AS DETERMINED BY THE ASSOCIATION, THE DISABILITY RETIREMENT BENEFITS PROVIDED PURSUANT TO THIS PART 8 ARE DISCONTINUED. ANY APPLICATION FOR RETIREMENT FOR DISABILITY MADE BY THE MEMBER AFTER SUCH APPOINTMENT OR REINSTATEMENT SHALL BE TREATED IN ALL RESPECTS AS A NEW APPLICATION.

31-31-815. [Similar to former 31-31-807] Death of member - survivor benefits.

(1) (a) If a MEMBER DIES WHILE IN ACTIVE SERVICE OR WHILE ON TEMPORARY OCCUPATIONAL DISABILITY AND LEAVES A SURVIVING SPOUSE OR DEPENDENT CHILDREN, OR BOTH, ONE OF THE SURVIVOR BENEFITS DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION ARE PAID IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION PLAN ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS TITLE 31 THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE AND DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT; AND

(II) (A) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION FROM A PLAN THAT IS PART OF THE DEFINED BENEFIT SYSTEM PURSUANT TO SECTION 31-31-204; OR

(B) HAS NOT REACHED AGE FIFTY-FIVE WITH TWENTY-FIVE YEARS OF ACCUMULATED SERVICE AS A MEMBER AND IS A PARTICIPANT UNDER THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE 31 OR UNDER A LOCAL MONEY PURCHASE PLAN.

(b) ONE OF THE FOLLOWING SURVIVOR BENEFITS IS PAID IF THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION ARE SATISFIED:

(I) WHEN THERE IS A SURVIVING SPOUSE AND NO DEPENDENT CHILDREN, THE MONTHLY BENEFIT IS FORTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(II) WHEN THERE IS A SURVIVING SPOUSE AND ONE DEPENDENT CHILD, THE MONTHLY BENEFIT IS FORTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(III) WHEN THERE IS A SURVIVING SPOUSE AND TWO OR MORE DEPENDENT CHILDREN, THE MONTHLY BENEFIT IS FIFTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(IV) WHEN THERE IS NO SURVIVING SPOUSE AND THREE OR MORE DEPENDENT CHILDREN, THE MONTHLY BENEFIT IS FIFTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(V) WHEN THERE IS NO SURVIVING SPOUSE AND TWO DEPENDENT CHILDREN, THE MONTHLY BENEFIT IS FORTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(VI) WHEN THERE IS NO SURVIVING SPOUSE AND ONE DEPENDENT CHILD, THE MONTHLY BENEFIT SHALL BE FORTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(2) ANY BENEFIT PROVIDED IN ACCORDANCE WITH THIS SECTION TO THE SURVIVING SPOUSE OR DEPENDENT CHILD OF A MEMBER WHO DIES WHILE IN ACTIVE SERVICE TERMINATES UPON THE DEATH OF THE SURVIVING SPOUSE OR UPON THE DEATH OR TERMINATION OF DEPENDENCY OF SUCH DEPENDENT CHILD, AS APPLICABLE.

(3) (a) WHEN THERE IS A SURVIVING SPOUSE AND ONE DEPENDENT CHILD RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE RECEIVES TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILD SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION.

(b) WHEN THERE IS A SURVIVING SPOUSE AND TWO OR MORE DEPENDENT CHILDREN RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE RECEIVES TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILDREN RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO SUBSECTION (1)(b)(III) OF THIS SECTION.

(c) UPON THE TERMINATION OF THE BENEFIT PAYABLE TO THE CHILD OR CHILDREN PURSUANT TO SUBSECTION (3)(a) OR (3)(b) OF THIS SECTION, THE SURVIVING SPOUSE RECEIVES THE BENEFIT PURSUANT TO SUBSECTION (1)(b)(I) OF THIS SECTION.

(4) IF A SURVIVOR BENEFIT IS PAYABLE FOR THE BENEFIT OF MORE THAN ONE DEPENDENT CHILD OF THE MEMBER PURSUANT TO SUBSECTION (1)(b)(III), (1)(b)(IV), OR (1)(b)(V) OF THIS SECTION AND THE DEPENDENT CHILDREN RESIDE IN SEPARATE HOUSEHOLDS FROM EACH OTHER, THE BENEFIT IS DIVIDED EQUALLY AMONG THE CHILDREN.

(5) ANY SURVIVING SPOUSE OR DEPENDENT CHILD RECEIVING BENEFITS PURSUANT TO SUBSECTION (1)(b)(I) OR (1)(b)(VI) OF THIS SECTION PRIOR TO JANUARY 1, 2002, RECEIVES ANY INCREASED BENEFIT ESTABLISHED IN SUBSECTION (1)(b)(I) OR (1)(b)(VI) OF THIS SECTION ON JANUARY 1, 2002, AS APPLICABLE.

(6) (a) THE SURVIVOR BENEFITS PAYABLE UNDER THE STATEWIDE DEATH AND DISABILITY PLAN ESTABLISHED IN THIS PART 8 IS REDETERMINED EFFECTIVE OCTOBER 1 EACH YEAR, AND THE REDETERMINED AMOUNT IS PAYABLE FOR THE FOLLOWING TWELVE MONTHS. TO BE ELIGIBLE FOR REDETERMINATION, THE BENEFITS SHALL HAVE BEEN PAID FOR AT LEAST TWELVE CALENDAR MONTHS PRIOR TO THE EFFECTIVE DATE OF REDETERMINATION. THE ANNUAL REDETERMINATION OF BENEFITS MADE PURSUANT TO THIS SECTION IS IN LIEU OF ANY OTHER ANNUAL COST OF LIVING ADJUSTMENT.

(b) FOR THE REDETERMINATION OF SURVIVOR BENEFITS PAYABLE PURSUANT TO

THIS SECTION, THE AMOUNT OF THE BENEFIT ON THE EFFECTIVE DATE OF THE BENEFIT IS INCREASED BY A PERCENTAGE TO BE DETERMINED BY THE BOARD BUT NOT MORE THAN THREE PERCENT FOR EACH FULL YEAR CONTAINED IN THE PERIOD COMMENCING WITH THE EFFECTIVE DATE OF THE BENEFIT AND ENDING WITH THE EFFECTIVE DATE OF THE REDETERMINATION.

(c) THE COST OF THE ADJUSTMENT OF BENEFITS PROVIDED BY THIS SECTION IS FUNDED IN THE SAME MANNER AS OTHER BENEFITS ESTABLISHED BY THIS PART 8.

31-31-816. [Similar to former 31-31-807.5] Death of member - line-of-duty - survivor benefits.

(1) (a) IF A MEMBER DIES WHILE IN ACTIVE SERVICE AS THE DIRECT AND PROXIMATE RESULT OF A PERSONAL INJURY SUSTAINED WHILE PERFORMING OFFICIAL DUTIES OR AS A RESULT OF AN OCCUPATIONAL DISEASE ARISING OUT OF AND IN THE COURSE OF THE MEMBER'S EMPLOYMENT, AND IF SUCH MEMBER QUALIFIES FOR LINE-OF-DUTY STATUS UNDER SECTION 101 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AND LEAVES A SURVIVING SPOUSE OR DEPENDENT CHILDREN, OR BOTH, ONE OF THE SURVIVOR BENEFITS DESCRIBED IN EITHER SUBSECTION (1)(b) OR (1)(c) OF THIS SECTION IS PAID IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS TITLE 31 THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE AND DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT; AND

(II) (A) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION FROM A PLAN THAT IS PART OF THE DEFINED BENEFIT SYSTEM PURSUANT TO SECTION 31-31-204; OR

(B) HAS NOT REACHED AGE FIFTY-FIVE WITH TWENTY-FIVE YEARS OF ACCUMULATED SERVICE AS A MEMBER AND IS A PARTICIPANT UNDER THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE 31 OR UNDER A LOCAL MONEY PURCHASE PLAN.

(b) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION, ONE OF THE FOLLOWING SURVIVOR BENEFITS IS PAID IF THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION ARE SATISFIED:

(I) WHEN THERE IS A SURVIVING SPOUSE AND NO DEPENDENT CHILDREN, THE MONTHLY BENEFIT IS FORTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(II) WHEN THERE IS A SURVIVING SPOUSE AND ONE DEPENDENT CHILD, THE MONTHLY BENEFIT IS FORTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(III) WHEN THERE IS A SURVIVING SPOUSE AND TWO OR MORE DEPENDENT CHILDREN, THE MONTHLY BENEFIT IS FIFTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(IV) WHEN THERE IS NO SURVIVING SPOUSE AND THREE OR MORE DEPENDENT CHILDREN, THE MONTHLY BENEFIT IS FIFTY PERCENT OF THE MONTHLY BASE SALARY PAID TO EACH MEMBER IMMEDIATELY PRECEDING DEATH.

(V) WHEN THERE IS NO SURVIVING SPOUSE AND TWO DEPENDENT CHILDREN, THE MONTHLY BENEFIT IS FORTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(VI) WHEN THERE IS NO SURVIVING SPOUSE AND ONE DEPENDENT CHILD, THE MONTHLY BENEFIT IS FORTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(c) FOR SURVIVORS WHO BECOME ELIGIBLE FOR SURVIVOR BENEFITS ON OR AFTER OCTOBER 15, 2002, ONE OF THE FOLLOWING SURVIVOR BENEFITS IS PAID IF THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION ARE SATISFIED:

(I) THE MONTHLY BENEFIT WHEN THERE IS A SURVIVING SPOUSE, EITHER WITH OR WITHOUT CHILDREN, IS SEVENTY PERCENT OF THE MONTHLY BASE SALARY BEING PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH.

(II) THE MONTHLY BENEFIT WHEN THERE IS NO SURVIVING SPOUSE BUT A SURVIVING CHILD OR CHILDREN IS:

(A) SEVENTY PERCENT OF THE MONTHLY BASE SALARY BEING PAID TO SUCH MEMBER IMMEDIATELY PRIOR TO DEATH IF THE CHILD OR CHILDREN WERE LIVING IN THE MEMBER'S HOME AT THE TIME OF THE MEMBER'S DEATH; OR

(B) FORTY PERCENT OF THE MONTHLY BASE SALARY BEING PAID TO SUCH MEMBER IMMEDIATELY PRIOR TO DEATH FOR ONE CHILD AND FIFTEEN PERCENT FOR EACH ADDITIONAL CHILD; EXCEPT THAT THE TOTAL BENEFIT RECEIVED SHALL NOT BE GREATER THAN SEVENTY PERCENT OF THE MONTHLY BASE SALARY IF THE CHILD OR CHILDREN WERE NOT LIVING IN THE MEMBER'S HOME AT THE TIME OF THE MEMBER'S DEATH.

(2) (a) ON OR AFTER OCTOBER 1, 2001, IF A MEMBER DIES WHILE IN ACTIVE SERVICE AS THE DIRECT AND PROXIMATE RESULT OF A PERSONAL INJURY SUSTAINED WHILE PERFORMING OFFICIAL DUTIES OR AS A RESULT OF AN OCCUPATIONAL DISEASE ARISING OUT OF AND IN THE COURSE OF THE MEMBER'S EMPLOYMENT, AND IF SUCH MEMBER QUALIFIES FOR LINE-OF-DUTY STATUS UNDER SECTION 101 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AND LEAVES A SURVIVING SPOUSE OR DEPENDENT CHILDREN, OR BOTH, ONE OF THE SURVIVOR BENEFITS DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION IS PAID IF THE MEMBER:

(I) IS ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS TITLE 31 THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE AND DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT;

(II) IS ELIGIBLE FOR THE NORMAL RETIREMENT PENSION FROM A PLAN THAT IS PART OF THE DEFINED BENEFIT SYSTEM PURSUANT TO SECTION 31-31-204; OR

(III) HAS REACHED AGE FIFTY-FIVE WITH TWENTY-FIVE YEARS OF ACCUMULATED SERVICE AS A MEMBER AND IS A PARTICIPANT UNDER THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE 31 OR UNDER A LOCAL MONEY PURCHASE PLAN.

(b) ONE OF THE FOLLOWING SURVIVOR BENEFITS IS PAID IF THE REQUIREMENTS OF SUBSECTION (2)(a) OF THIS SECTION ARE SATISFIED AND IF THE SURVIVOR BENEFIT CURRENTLY RECEIVED PURSUANT TO SUBSECTION (2)(a)(I), (2)(a)(II), OR (2)(a)(III) OF THIS SECTION IS LESS THAN SEVENTY PERCENT OF THE MONTHLY BASE SALARY BEING PAID TO THE MEMBER IMMEDIATELY PRECEDING DEATH:

(I) THE MONTHLY BENEFIT TO BE PAID IN ADDITION TO THE MONTHLY RETIREMENT BENEFIT OTHERWISE PAYABLE WHEN THERE IS A SURVIVING SPOUSE, EITHER WITH OR WITHOUT CHILDREN, IS THE DIFFERENCE BETWEEN SEVENTY PERCENT OF THE MONTHLY BASE SALARY PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH AND THE AMOUNT PAYABLE PURSUANT TO BENEFITS RECEIVED UNDER THE PLAN IDENTIFIED IN SUBSECTION (2)(a)(I), (2)(a)(II), OR (2)(a)(III) OF THIS SECTION.

(II) THE MONTHLY BENEFIT TO BE PAID IN ADDITION TO THE MONTHLY RETIREMENT BENEFIT OTHERWISE PAYABLE WHEN THERE IS NO SURVIVING SPOUSE BUT THERE IS A SURVIVING CHILD OR CHILDREN IS:

(A) IF THE CHILD OR CHILDREN WERE LIVING IN THE MEMBER'S HOME AT THE TIME OF THE MEMBER'S DEATH, THE DIFFERENCE BETWEEN SEVENTY PERCENT OF THE MONTHLY BASE SALARY BEING PAID TO SUCH MEMBER IMMEDIATELY PRECEDING DEATH AND THE AMOUNT PAYABLE PURSUANT TO BENEFITS RECEIVED UNDER THE PLAN IDENTIFIED IN SUBSECTION (2)(a)(I), (2)(a)(II), OR (2)(a)(III) OF THIS SECTION; OR

(B) IF THE CHILD OR CHILDREN WERE NOT LIVING IN THE MEMBER'S HOME AT THE TIME OF THE MEMBER'S DEATH, THE SUM OF FORTY PERCENT OF THE MONTHLY BASE SALARY BEING PAID TO SUCH MEMBER IMMEDIATELY PRIOR TO DEATH FOR THE FIRST CHILD PLUS FIFTEEN PERCENT FOR EACH ADDITIONAL CHILD, THE TOTAL OF WHICH SHALL NOT BE GREATER THAN SEVENTY PERCENT OF THE MONTHLY BASE SALARY LESS THE AMOUNT PAYABLE PURSUANT TO BENEFITS RECEIVED UNDER THE PLAN IDENTIFIED IN SUBSECTION (2)(a)(I), (2)(a)(II), OR (2)(a)(III) OF THIS SECTION.

(3) THE BOARD SHALL ADOPT RULES THAT SPECIFY STANDARDS AND ESTABLISH PROCEDURES FOR DETERMINING WHETHER A MEMBER'S DEATH IS THE DIRECT AND PROXIMATE RESULT OF A PERSONAL INJURY SUSTAINED WHILE PERFORMING OFFICIAL DUTIES OR AN OCCUPATIONAL DISEASE ARISING OUT OF AND IN THE COURSE OF A MEMBER'S EMPLOYMENT AND, IN THE CASE OF A LINE-OF-DUTY DEATH, WHETHER ANY OF THE EXCEPTIONS SPECIFIED IN SECTION 101 (h)(2) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", ARE APPLICABLE. SUCH DECISIONS BY THE ASSOCIATION MAY BE APPEALED THROUGH THE ADMINISTRATIVE REVIEW PROCEDURES SET FORTH IN THE RULES ADOPTED BY THE BOARD AND SUCH FINAL DECISION BY THE ASSOCIATION CAN ONLY BE REVIEWED BY PROPER COURT ACTION SUBJECT TO RULE 106 (a)(4) THE COLORADO RULES OF CIVIL PROCEDURE. THE BOARD MAY APPOINT HEARING OFFICERS TO CONDUCT HEARINGS ON ANY ISSUE RELATING TO SURVIVOR BENEFITS.

(4) (a) THE BOARD SHALL ADOPT RULES THAT SPECIFY THE METHOD OF REVIEWING EXISTING SURVIVOR BENEFIT AWARDS TO:

(I) DETERMINE WHETHER A MEMBER'S DEATH WAS THE DIRECT AND PROXIMATE RESULT OF A PERSONAL INJURY SUSTAINED WHILE PERFORMING OFFICIAL DUTIES OR AS A RESULT OF AN OCCUPATIONAL DISEASE ARISING OUT OF AND IN THE COURSE OF THE MEMBER'S EMPLOYMENT;

(II) DETERMINE, IN THE CASE OF LINE-OF-DUTY DEATHS OCCURRING AFTER DECEMBER 31, 1996, WHETHER ANY OF THE EXCEPTIONS SPECIFIED IN SECTION 101 (h)(2) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", ARE APPLICABLE;

(III) ESTABLISH PROCEDURES FOR MAKING SUCH DETERMINATIONS AND THE APPEALS THROUGH THE ADMINISTRATIVE REVIEW PROCEDURES, INCLUDING THE APPOINTMENT OF HEARING OFFICERS TO CONDUCT HEARINGS. FINAL DECISIONS BY THE ASSOCIATION CAN ONLY BE REVIEWED BY PROPER COURT ACTION SUBJECT TO RULE 106 (a)(4) OF THE COLORADO RULES OF CIVIL PROCEDURE.

(b) THE DETERMINATIONS MADE BY THE BOARD PURSUANT TO THIS SUBSECTION (4) ARE MADE ON THE BASIS OF THE MEDICAL EVIDENCE THAT WAS PREVIOUSLY SUBMITTED IN CONNECTION WITH THE APPLICATION FOR SURVIVOR BENEFITS AND OTHER RELEVANT NONTTESTIMONIAL EVIDENCE.

(c) ANY DECISION MADE BY THE BOARD TO CHANGE AN EXISTING SURVIVOR BENEFIT AWARD TO AN ON-DUTY SURVIVOR BENEFIT UNDER THIS SUBSECTION (4) OPERATES ON A PROSPECTIVE BASIS FROM THE DATE OF THE BOARD'S DECISION.

(5) ANY BENEFIT PROVIDED IN ACCORDANCE WITH THIS SECTION TO THE SURVIVING SPOUSE OR DEPENDENT CHILD OF A MEMBER WHO DIES WHILE IN ACTIVE SERVICE TERMINATES UPON THE DEATH OF THE SURVIVING SPOUSE OR UPON THE DEATH OR TERMINATION OF DEPENDENCY OF THE DEPENDENT CHILD, AS APPLICABLE.

(6) (a) WHEN THERE IS A SURVIVING SPOUSE AND ONE DEPENDENT CHILD RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE RECEIVES TWO-THIRDS OF THE BENEFIT AND THE CHILD RECEIVES THE BALANCE OF THE BENEFIT PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION.

(b) WHEN THERE IS A SURVIVING SPOUSE AND TWO OR MORE DEPENDENT CHILDREN RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE RECEIVES FIFTY PERCENT OF THE BENEFIT AND THE CHILDREN RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION.

(c) UPON THE TERMINATION OF THE BENEFIT PAYABLE TO THE CHILD OR CHILDREN PURSUANT TO SUBSECTION (6)(a) OR (6)(b) OF THIS SECTION, THE SURVIVING SPOUSE RECEIVES THE ENTIRE BENEFIT PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION.

(7) IF A SURVIVOR BENEFIT IS PAYABLE FOR THE BENEFIT OF MORE THAN ONE DEPENDENT CHILD OF THE MEMBER PURSUANT TO SUBSECTION (1) OR (2) OF THIS

SECTION AND THE DEPENDENT CHILDREN RESIDE IN SEPARATE HOUSEHOLDS FROM EACH OTHER, THE CHILDREN'S BENEFIT IS DIVIDED EQUALLY AMONG THE CHILDREN.

(8) IF A MEMBER DIES WHILE IN ACTIVE SERVICE AS THE DIRECT AND PROXIMATE RESULT OF A PERSONAL INJURY SUSTAINED WHILE PERFORMING OFFICIAL DUTIES OR AS A RESULT OF AN OCCUPATIONAL DISEASE ARISING OUT OF AND IN THE COURSE OF THE MEMBER'S EMPLOYMENT AND OTHERWISE QUALIFIES FOR BENEFITS UNDER SUBSECTION (2) OF THIS SECTION, BUT FALLS WITHIN ONE OR MORE OF THE EXCEPTIONS SPECIFIED IN SECTION 101 (h)(2) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AND LEAVES A SURVIVING SPOUSE OR DEPENDENT CHILDREN, OR BOTH, SAID SURVIVORS SHALL:

(a) RECEIVE BENEFITS AS ALLOWED UNDER SECTION 31-31-815; OR

(b) RECEIVE BENEFITS AS ALLOWED UNDER THE MEMBER'S NORMAL RETIREMENT PLAN.

31-31-817. [Similar to former 31-31-808] Reduction of survivor benefits.

(1) THE BENEFITS PAYABLE UNDER SECTIONS 31-31-815 AND 31-31-816 TO THE SURVIVING SPOUSE AND DEPENDENT CHILDREN OF ANY MEMBER, WHO AT THE TIME OF THE MEMBER'S DEATH WAS A MEMBER OF A MONEY PURCHASE PLAN ESTABLISHED UNDER THIS ARTICLE OR ARTICLE 30.5 OF THIS TITLE 31, INCLUDING ANY DEPARTMENT CHIEF, WHO AT THE TIME OF THE CHIEF'S DEATH HAD BEEN EXEMPTED FROM THE STATEWIDE RETIREMENT PLAN AS PERMITTED BY SECTION 31-31.5-203, ARE REDUCED BY AN AMOUNT THAT IS THE ACTUARIAL EQUIVALENT OF THE BENEFITS SUCH SURVIVING SPOUSE AND DEPENDENT CHILDREN RECEIVE FROM THE MONEY PURCHASE PLAN, WHETHER THE BENEFITS RECEIVED FROM THE MONEY PURCHASE PLAN ARE PAID ON A PERIODIC BASIS OR IN A LUMP SUM. NO SUCH REDUCTION SHALL EXCEED THE ACTUARIAL EQUIVALENT OF MONEY PURCHASE PLAN BENEFITS IF SUCH BENEFITS HAD BEEN FUNDED AT THE SAME RATE OF CONTRIBUTIONS SPECIFIED IN SECTION 31-31.5-301.

(2) THE BENEFITS PAYABLE UNDER SECTIONS 31-31-815 AND 31-31-816 TO THE SURVIVING SPOUSE AND DEPENDENT CHILDREN OF ANY MEMBER WHO ARE ALSO RECEIVING PAYMENTS FROM THE MEMBER'S SEPARATE RETIREMENT ACCOUNT PURSUANT TO SECTIONS 31-31-412 (1)(c) AND 31-31.5-304 (2) ARE 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.

(3) THE BENEFITS PAYABLE UNDER SECTIONS 31-31-815 AND 31-31-816 TO THE SURVIVING SPOUSE AND DEPENDENT CHILDREN OF ANY MEMBER WHO ARE ALSO RECEIVING PAYMENTS FROM A STATEWIDE OR LOCAL COLORADO FIRE OR POLICE DEFINED BENEFIT PENSION PLAN ARE REDUCED BY THE AMOUNT OF THE DEFINED BENEFIT PAYMENTS TO BE RECEIVED.

31-31-818. [Similar to former 31-31-809] Termination of benefits.

EXCEPT AS OTHERWISE PROVIDED IN SECTION 31-31-815 (2), ANY BENEFIT

PROVIDED IN ACCORDANCE WITH THIS PART 8 TO A SURVIVING SPOUSE TERMINATES UPON THE DEATH OF THE SURVIVING SPOUSE. EXCEPT AS OTHERWISE PROVIDED IN SECTION 31-31-815 (2), ANY BENEFIT PROVIDED IN ACCORDANCE WITH THIS PART 8 TO A DEPENDENT CHILD TERMINATES UPON THE DEATH OF THE DEPENDENT CHILD OR THE TERMINATION OF DEPENDENCY OF THE DEPENDENT CHILD.

31-31-819. [Similar to former 31-31-811] Funding of death and disability benefits.

(1) FOR MEMBERS WHO DIE OR ARE DISABLED ON OR AFTER JANUARY 1, 1980, THE DEATH AND DISABILITY BENEFITS PROVIDED TO ANY MEMBER PURSUANT TO THIS PART 8 IS PAID FOR BY STATE MONEY TRANSFERRED TO THE FIRE AND POLICE MEMBERS' BENEFIT INVESTMENT FUND CREATED BY SECTION 31-31-301 (1)(a), SUBJECT TO THE LIMITATIONS IMPOSED BY THIS SECTION. MONEY IN THE DISABILITY AND DEATH BENEFITS TRUST FUND CREATED BY SECTION 31-31-821 SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN THE PAYMENT OF THE DEATH AND DISABILITY BENEFITS ESTABLISHED BY THIS PART 8.

(2) THE BOARD SHALL SUBMIT AN ANNUAL ACTUARIAL VALUATION REPORT DATED JANUARY 1 OF THE YEAR IN WHICH THE REPORT IS SUBMITTED, REGARDING THE BENEFIT LIABILITIES ACCRUED UNDER THIS PART 8 TO THE STATE AUDITOR, THE LEGISLATIVE AUDIT COMMITTEE, AND THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, TOGETHER WITH ANY RECOMMENDATIONS CONCERNING SUCH LIABILITIES AS ACCRUED.

(3) (a) TO ENSURE THAT THERE IS SUFFICIENT MONEY TO PAY DEATH AND DISABILITY BENEFITS FOR MEMBERS HIRED BEFORE JANUARY 1, 1997, THE STATE TREASURER SHALL ISSUE WARRANTS TO THE FIRE AND POLICE PENSION ASSOCIATION ON JULY 1, 2022, AND JULY 1, 2023, IN AN AMOUNT EQUAL TO SIX MILLION SIX HUNDRED FIFTY THOUSAND DOLLARS FOR EACH WARRANT AND ON JULY 1, 2025, AND EVERY JULY 1 THEREAFTER THROUGH JULY 1, 2059, IN AN AMOUNT EQUAL TO TWO MILLION FIFTY THOUSAND DOLLARS FOR EACH WARRANT. THE WARRANT ISSUED ON JULY 1, 2022, IS TO BE PAID FROM THE GENERAL FUND, AND THE REMAINING WARRANTS ARE TO BE PAID FROM THE DEATH AND DISABILITY PAYMENT CASH FUND CREATED IN SUBSECTION (3)(b) OF THIS SECTION. THE BOARD SHALL DEPOSIT THIS MONEY IN THE STATEWIDE DEATH AND DISABILITY TRUST FUND CREATED IN SECTION 31-31-821.

(b) (I) THE DEATH AND DISABILITY PAYMENT CASH FUND IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH SUBSECTIONS (3)(b)(II) AND (3)(b)(III) OF THIS SECTION. IN ACCORDANCE WITH SECTION 24-36-114 (1), THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE GENERAL FUND. THE STATE TREASURER SHALL USE THE MONEY IN THE FUND FOR THE WARRANTS ISSUED ON JULY 1, 2023, JULY 1, 2025, AND EVERY JULY 1 THEREAFTER THROUGH JULY 1, 2059, IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION.

(II) ON JULY 1, 2022, THE STATE TREASURER SHALL TRANSFER SIX MILLION SIX HUNDRED FIFTY THOUSAND DOLLARS FROM THE GENERAL FUND TO THE DEATH AND DISABILITY PAYMENT CASH FUND CREATED IN SUBSECTION (3) OF THIS SECTION.

(III) ON JULY 1, 2025, AND EVERY JULY 1 THEREAFTER THROUGH JULY 1, 2059, THE STATE TREASURER SHALL TRANSFER TWO MILLION FIFTY THOUSAND DOLLARS FROM THE GENERAL FUND TO THE DEATH AND DISABILITY PAYMENT CASH FUND CREATED IN SECTION (3)(b)(I) OF THIS SECTION.

(4) FOR EACH MEMBER HIRED ON OR AFTER JANUARY 1, 1997, WHO IS ELIGIBLE FOR THE DEATH AND DISABILITY COVERAGE PROVIDED BY THIS PART 8, A CONTRIBUTION SHALL BE MADE TO THE DEATH AND DISABILITY ACCOUNT IN THE FUND FOR THE YEAR 2021 IN AN AMOUNT NOT GREATER THAN THREE PERCENT OF THE MEMBER'S SALARY. THEREAFTER, THE BOARD, BASED ON AN ANNUAL ACTUARIAL VALUATION, MAY ADJUST THE CONTRIBUTION RATE EVERY YEAR, BUT IN NO EVENT MAY THE ADJUSTMENT FOR ANY ONE-YEAR PERIOD EXCEED TWO-TENTHS OF ONE PERCENT OF THE MEMBER'S SALARY. ANY EMPLOYER AND ANY LOCAL PENSION BOARD OR AUTHORITY SHALL PROVIDE SUCH INFORMATION AS MAY BE REQUIRED BY THE BOARD IN ORDER TO COMPLETE THE ANNUAL ACTUARIAL VALUATIONS. THE ACTUARY APPOINTED BY THE BOARD MAY USE EITHER THE ENTRY AGE-NORMAL COST METHOD OR THE AGGREGATE COST METHOD FOR PURPOSES OF THE STUDY REQUIRED BY THIS SUBSECTION (4). ANY UNFUNDED ACCRUED LIABILITY SHALL BE FUNDED OVER A PERIOD NOT TO EXCEED THIRTY YEARS. THE ACTUARIAL STUDY SHALL NOT INCLUDE ANY CONSIDERATION OF A COST OF LIVING ADJUSTMENT TO BENEFITS AWARDED TO MEMBERS WHO ARE OCCUPATIONALLY DISABLED. PAYMENTS SHALL BE MADE BY THE EMPLOYER AND ARE DUE NO LATER THAN TEN DAYS FOLLOWING THE DATE OF PAYMENT OF SALARY TO THE MEMBER. THE PAYMENTS REQUIRED BY THIS SECTION ARE SUBJECT TO INTEREST IF NOT SUBMITTED WHEN DUE. ANY DECISION REGARDING WHETHER THE CONTRIBUTION REQUIRED BY THIS SUBSECTION (4) ARE ASSESSED AGAINST THE EMPLOYER OR THE MEMBER, OR SHALL IN SOME MANNER BE ASSESSED JOINTLY AGAINST THE EMPLOYER AND THE MEMBER, WILL BE MADE AT THE LOCAL LEVEL USING THE USUAL PROCESS FOR DETERMINING EMPLOYEE BENEFITS. IF IT IS NOT ALREADY PART OF THE USUAL PROCESS FOR DETERMINING EMPLOYEE BENEFITS, THE EMPLOYER SHALL CONFER WITH THE EMPLOYEES OR THEIR REPRESENTATIVE PRIOR TO MAKING A DETERMINATION ON HOW THE CONTRIBUTION WILL BE ASSESSED.

31-31-820. [Similar to former 31-31-812] Military leave of absence.

(1) AUTHORIZED LEAVE OF ABSENCE INCLUDES LEAVE FOR MILITARY SERVICE AS ALLOWED BY THE BOARD. THE BOARD SHALL ADOPT RULES REGARDING AUTHORIZED LEAVE OF ABSENCE FOR MILITARY SERVICE, INCLUDING, BUT NOT LIMITED TO:

- (a) LIMITS ON THE LENGTH OF THE TERM OF THE LEAVE OF ABSENCE;
- (b) ASSESSMENT OF COSTS FOR COVERAGE DURING THE LEAVE OF ABSENCE; AND
- (c) ANY OTHER MATTER THAT THE BOARD DEEMS NECESSARY FOR COVERAGE UNDER THE STATEWIDE DEATH AND DISABILITY PLAN.

(2) THE BENEFITS PAYABLE TO THE MEMBER, THE SURVIVING SPOUSE OF THE MEMBER, AND THE DEPENDENT CHILDREN OF THE MEMBER PURSUANT TO THIS PART 8 ARE REDUCED BY AN AMOUNT THAT IS THE ACTUARIAL EQUIVALENT OF ANY MILITARY BENEFIT RECEIVED AS A RESULT OF THE DEATH OR DISABILITY OF A

MEMBER WHILE ON AUTHORIZED LEAVE FOR MILITARY SERVICE WHETHER THE BENEFITS ARE PAID ON A PERIODIC BASIS OR IN A LUMP SUM.

31-31-821. [Similar to former 31-31-813] Statewide death and disability trust fund - created.

(1) THERE IS CREATED A DISABILITY AND DEATH BENEFITS TRUST FUND WITHIN THE ASSOCIATION INTO WHICH CONTRIBUTIONS FOR DEATH AND DISABILITY BENEFITS, INCLUDING STATE CONTRIBUTIONS MADE PURSUANT TO SECTION 31-31-819 ARE DEPOSITED. THE BENEFITS PROVIDED BY THIS PART 8, TOGETHER WITH THE EXPENSES OF ADMINISTERING SAID PART, ARE PAID FROM THE FUND.

(2) THE ASSETS OF THE DISABILITY AND DEATH BENEFITS TRUST FUND SHALL BE INVESTED IN THE FIRE AND POLICE MEMBERS' BENEFIT INVESTMENT FUND.

31-31-822. [Similar to former 31-31-814] Suspension and termination of benefits for noncompliance.

IF A MEMBER REFUSES TO SUBMIT TO A MEDICAL EXAMINATION REQUIRED BY THE ASSOCIATION AND AUTHORIZED BY THIS PART 8, FAILS TO PROVIDE INFORMATION NECESSARY FOR THE ASSOCIATION TO ASSESS ELIGIBILITY OR CONTINUING ELIGIBILITY FOR BENEFITS, OR OBSTRUCTS THE ASSOCIATION FROM RECEIVING SUCH NECESSARY INFORMATION, ALL RIGHTS TO COLLECT OR TO BEGIN OR MAINTAIN ANY PROCEEDING FOR THE COLLECTION OF BENEFITS PURSUANT TO THIS PART 8 ARE SUSPENDED, AND ALL RIGHTS TO BENEFITS THAT ACCRUE AND BECOME PAYABLE DURING THE PERIOD OF SUCH REFUSAL OR OBSTRUCTION ARE BARRED. IF THE MEMBER CONTINUES TO REFUSE TO SUBMIT TO THE EXAMINATION OR TO PROVIDE THE ADDITIONAL INFORMATION AFTER DIRECTION BY THE ASSOCIATION OR ITS HEARING OFFICER OR IN ANY WAY OBSTRUCTS THE SAME, THE BOARD SHALL TERMINATE THE BENEFIT.

31-31-823. [Similar to former 31-31-815] Amendment of plan provisions.

THE BOARD MAY AMEND THE PROVISIONS FOR DISABILITY AND SURVIVOR BENEFITS UNDER THIS PART 8 AS IT DEEMS PRUDENT AND NECESSARY TO COMPLY WITH STATE AND FEDERAL LAW OR AS IT DEEMS NECESSARY TO EFFICIENTLY ADMINISTER THE BENEFITS UNDER THE PLAN.

SECTION 2. In Colorado Revised Statutes, **amend** 31-31-101 as follows:

31-31-101. Legislative declaration.

The general assembly hereby declares that the establishment of police officers' and firefighters' pension plans in this state is a matter of statewide concern that affects the public safety and general welfare, that the ability of pension funds to pay earned benefits to present and future members is a necessary corollary to the establishment of pension plans, and that statewide pension plans establishing pension benefits that can be fully funded with local moneys will permit the continuation of pension plans for police officers and firefighters in this state. In addition, the general assembly declares that any pension plan must be actuarially sound ~~in order~~ to assure the security of the pension system and that this article is

enacted to provide for the stability and security of police officers' and firefighters' pension plans in this state. The general assembly further declares that state ~~moneys~~ MONEY provided to municipalities, fire protection districts, and county improvement districts do not constitute a continuing obligation of the state to participate in the ongoing normal costs of pension plan benefits, except for state funding of death and disability RETIREMENT benefits as specified in this article, but are provided in recognition that the local governments are currently burdened with financial obligations relating to pensions in excess of their present financial capacities. It is the intent of the general assembly in providing state ~~moneys~~ MONEY to assist the local governments that state participation decrease annually, terminating at the earliest possible date.

SECTION 3. In Colorado Revised Statutes, 31-31-102, **amend** (2) as follows:

31-31-102. Definitions.

As used in this article 31, unless the context otherwise requires:

(2) "Board" means the board of directors established as the governing body of the fire and police pension association as provided in section 31-31-201 (2). "BOARD" INCLUDES REPRESENTATIVES OF THE ASSOCIATION AS DELEGATED BY THE BOARD.

SECTION 4. In Colorado Revised Statutes, 31-31-202, **amend** (1)(c) and (1)(j); **repeal** (2); **add** (1)(l); and **add with amended and relocated provisions** (1)(m) as follows:

31-31-202. Powers and duties of the board.

(1) The board shall:

(c) Establish criteria for the determination of disability to administer the provisions of ~~section 31-31-803~~ PART 8 OF THIS ARTICLE 31;

(j) ~~Promulgate~~ ADOPT such rules as may be necessary to implement the provisions of this ~~article~~ ARTICLE 31, ~~and~~ article 30.5, AND ARTICLE 31.5 of this ~~title~~ TITLE 31;

(l) DELEGATE ANY AUTHORITY TO THE EXECUTIVE DIRECTOR, OFFICERS, COMMITTEES, OR OTHER CONTRACTORS AS IT DEEMS APPROPRIATE FOR THE ADMINISTRATION OF THE PLANS;

(m) ~~[Formerly 31-31-202 (2)] The board has the sole power to~~ Determine eligibility for retirement for disability, whether total or occupational, for any police officer or firefighter in this state whether or not such member is covered by the provisions of this article, IN ACCORDANCE WITH THE RULES ADOPTED BY THE BOARD PURSUANT TO SUBSECTION (1)(j) OF THIS SECTION, except for the following:

(I) Those police officers and firefighters having social security coverage and not affiliated as to disability; and

(II) Those police officers and firefighters whose employers have established

exempt alternative pension plans, including exempt alternative defined benefit plans that are administered on an actuarially sound basis, based upon assumptions and methodology adopted by the board for statewide use, on or before December 1, 1978, in accordance with the provisions of part 8 of article 30.5 of this title, unless such plans have elected to become covered under the statewide death and disability plan pursuant to ~~section 31-31-802 (1)~~ PART 8 OF THIS ARTICLE 31.

~~(H) Except as provided in this subsection (2), the final power to determine disability status is vested in the board, but each employer shall determine whether positions are available for disabled members and shall make such appointments to such positions as it deems necessary.~~

~~(2) (a) The board has the sole power to determine eligibility for retirement for disability, whether total or occupational, for any police officer or firefighter in this state whether or not such member is covered by the provisions of this article, except for the following:~~

~~(f) Those police officers and firefighters having social security coverage and not affiliated as to disability; and~~

~~(H) Those police officers and firefighters whose employers have established exempt alternative pension plans, including exempt alternative defined benefit plans that are administered on an actuarially sound basis, based upon assumptions and methodology adopted by the board for statewide use, on or before December 1, 1978, in accordance with the provisions of part 8 of article 30.5 of this title, unless such plans have elected to become covered under the statewide death and disability plan pursuant to section 31-31-802 (1).~~

~~(b) Except as provided in this subsection (2), the final power to determine disability status is vested in the board, but each employer shall determine whether positions are available for disabled members and shall make such appointments to such positions as it deems necessary.~~

SECTION 5. In Colorado Revised Statutes, 31-31-501, **amend** (6)(b)(IV) as follows:

31-31-501. Withdrawal into statewide money purchase plan.

(6) (b) (IV) If members who have made such an election die or become disabled prior to termination of employment, neither they nor their survivors shall be eligible for benefits under the statewide retirement plan, but rather they shall be limited to those benefits provided in ~~sections 31-31-803, 31-31-807, and 31-31-807.5~~ PART 8 OF THIS ARTICLE 31.

SECTION 6. In Colorado Revised Statutes, 31-31.5-203, **amend** (3) as follows:

31-31.5-203. Department chief - exemption by written agreement - definition.

(3) A department chief exempted FROM THE STATEWIDE RETIREMENT PLAN pursuant to subsection (1) of this section may maintain coverage for disability and

survivor benefits under part 8 of article 31 of this title 31 if the department chief participates in the statewide money purchase plan, ~~the statewide retirement plan, or a local money purchase plan that is qualified under section 401 (a) of the federal "Internal Revenue Code of 1986" and that has a contribution rate of not less than eighteen percent~~

SECTION 7. In Colorado Revised Statutes, 31-31.5-401, **amend** (2)(b) and (4) as follows:

31-31.5-401. Vesting and benefit eligibility.

(2) A member is eligible for a normal retirement when:

(b) The member has attained age fifty, the member's combined age and years of accrued service is equal to at least eighty, and the member is not receiving benefits pursuant to ~~section 31-31-803~~ PART 8 OF ARTICLE 31 OF THIS TITLE 31.

(4) An active or inactive vested member who is not eligible for normal retirement, who has attained age fifty, who is not receiving or has terminated benefits pursuant to ~~section 31-31-803~~ PART 8 OF ARTICLE 31 OF THIS TITLE 31, and who has terminated employment is eligible for an early retirement pension. The early retirement pension for a member is the benefit that the member would have received at age fifty-five reduced on an actuarial equivalent basis to reflect the early receipt of the benefit as determined by the board.

SECTION 8. In Colorado Revised Statutes, 33-4-104.5, **amend** (2) as follows:

33-4-104.5. Free licenses issued - first responders with a permanent occupational disability - definition.

(2) For purposes of this section, "first responder with a permanent occupational disability" means an individual who is a resident, as defined in section 33-1-102 (38), and:

(a) Is a retired member of the fire and police pension association, as defined in section 31-31-102 (6), who has established to the division that he or she has been found to have, as the result of an injury received while performing official duties or an occupational disease arising out of and in the course of performing official duties, a permanent occupational disability, as defined in ~~section 31-31-801 (3.2)~~ SECTION 31-31-802, by the fire and police pension association; or

(b) Served as a peace officer, as defined in section 16-2.5-101, or as a firefighter, as defined in section 29-5-203 (10), and has established to the division that he or she has, as the result of an injury received while performing official duties or an occupational disease arising out of and in the course of performing official duties, a permanent occupational disability as defined in ~~section 31-31-801 (3.2)~~ SECTION 31-31-802.

SECTION 9. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is

on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 6, 2026