



**Report to the
Colorado General Assembly**

**Police Officers' and
Firefighters' Pension Reform
Commission**

Prepared by

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Police Officers' and Firefighters' Pension Reform Commission

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December 2012

To Members of the Sixty-eighth General Assembly:

Submitted herewith is the final report of the Police Officers' and Firefighters' Pension Reform Commission. This committee was created pursuant to Section 31-31-1001, Colorado Revised Statutes. The purpose of the committee is to study and develop proposed legislation relating to funding of police officers' and firefighters' pensions in this state and the benefit designs of such pension plans.

At its meeting on October 15, 2012, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2013 session was approved.

Sincerely,

/s/ Representative Frank McNulty
Chairman

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This report is also available on line at:

<http://www.colorado.gov/lcs/FPPA>

Committee Charge

The Fire and Police Pension Association (FPPA) was established in 1980 and administers two funds: the Fire and Police Members' Benefit Investment Fund and the Fire and Police Members' Self-Directed Investment Fund. Assets in these funds are used for a number of pension plans including the Defined Benefit System, the Statewide Death and Disability Plan, and numerous separate "old hire" plans for police officers and firefighters throughout the state of Colorado. Pursuant to Section 31-31-1001, C.R.S., the Police Officers' and Firefighters' Pension Reform Commission has the responsibility to study and develop proposed legislation related to funding of police officers' and firefighters' pensions in this state and the benefit designs of such pension plans. The statute directs the commission to study, review, and propose legislation related to these issues including, but not limited to, the following subjects:

- normal retirement age and compulsory retirement;
- payment of benefits prior to normal retirement age;
- service requirements for eligibility;
- rate of accrual of benefits;
- disability benefits;
- survivors' benefits;
- vesting of benefits;
- employee contributions;
- post-retirement increases;
- creation of an administrative board;
- creation of a consolidated statewide system;
- distribution of state funds;
- coordination of benefits with other programs; and
- the volunteer firefighter pension system.

Commission Activities

The commission held one meeting during the 2012 interim. At this meeting, executives from the FPPA informed the commission on the state's involvement in fire and police pension plans and recent activities of the FPPA Board of Directors. The FPPA and the commission also engaged in a discussion regarding the administrative efficiency of the pension plans. In addition, the FPPA discussed the following:

- recent investment performance of pension funds;
- recommendations by the board to improve the funding status of FPPA plans;
- the state's payment schedule for old hire plans; and
- FPPA liability limits.

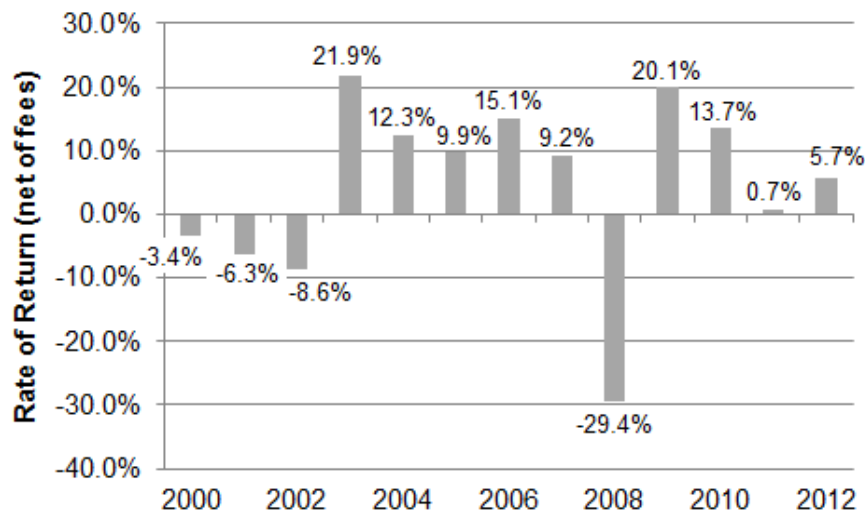


Recent Investment Performance Of Pension Funds

The FPPA informed the commission that net investment assets totaled \$3.4 billion at the close of 2011. These assets are held in the Fire and Police Members' Benefit Investment Fund (\$3.1 billion) and the Fire and Police Members' Self-Directed Investment Fund (\$0.3 billion). For this period, the gross rate of return on the Fire and Police Members' Benefit Investment Fund was 1.2 percent (0.7 percent, net of fees), compared with a 14.3 percent (13.7 percent, net of fees) return in the prior year.

The Fire and Police Members' Benefit Investment Fund had a net return of 5.7 percent on average year-to-date in 2012 through July, tracking much higher than the 0.7 percent rate of return for 2011, but substantially lower than the 13.7 investment return in 2010. Figure 1 shows the fund's performance since 2000. In general, the return on investment is negative during recessions and positive during periods of economic growth. As shown in Figure 1, the Benefit Investment Fund that holds the majority of assets for the FPPA pension plan systems, was significantly affected by the financial crisis in 2008. The fund has since recovered with a healthy 20.1 percent rate of return in 2010 along with the economy.

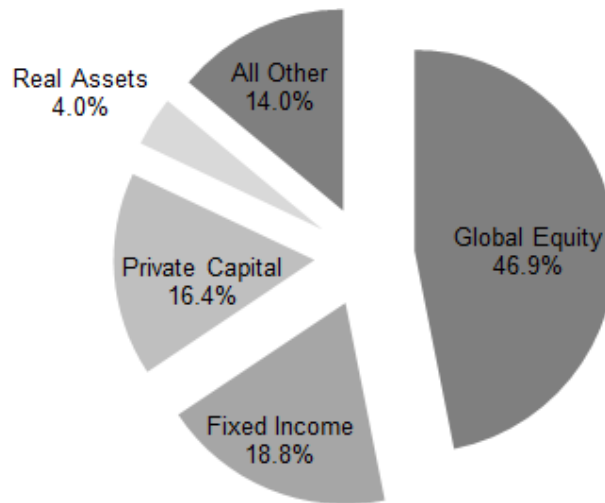
Figure 1: Fire and Police Members' Benefit Investment Fund



Source: Fire and Police Pension Association of Colorado.

Figure 2 shows the asset allocation as of July 2012. Asset allocation was largely made up of global equity investments (46.9 percent) and fixed income investments (18.8 percent). Private capital made up 16.4 percent of asset allocation. The FPPA noted that they pay close attention to asset allocation because it significantly affects investment performance. For example, the FPPA reduced investments in real assets, such as real estate, from 7.0 percent of holdings in 2009 to the 4.0 percent range in 2011 to reduce investment risk.

Figure 2: FPPA Asset Allocation



Source: Fire and Police Pension Association of Colorado.

Recommendations to Improve the Funding Status of Plans

At least every five years, the FPPA Board of Directors reviews its economic and demographic actuarial assumptions. The FPPA informed the commission that they have approved changes to these assumptions recommended by the actuaries Gabriel, Roeder, Smith and Company based on recent investment experience and future expectations. These changes, which projected a more conservative position for future costs, included:

- a lowering in the assumed normal investment return from 8.0 percent to 7.5 percent, considering a reduced inflation assumption given the current bond market;
- a reduction in the pension model inflation assumption from 3.5 percent to 3.0 percent; and
- a revision in the post-retirement mortality tables to reflect longer life spans.

Funding status changes. The FPPA informed the commission that the ratio of assets to liabilities, commonly referred to as the funded ratio, for the Statewide Defined Benefit Plan decreased from 102.9 percent as of January 1, 2011, to 96.4 percent as of January 1, 2012. The decrease in the ratio was attributed to changes in the actuarial assumptions. During the same time period, the Statewide Death and Disability Plan funded ratio increased from 108.0 percent to 113.7 percent. The increase in the ratio was largely due to a change in the level of claims. Also, the state-assisted old hire plan unfunded liability increased by \$113.7 million between 2011 and 2012, primarily because of an increase in liabilities.

Payments to the FPPA Old-Hire Pension Plan

The FPPA gave the commission a brief history of the state's requirement to make payments to the FPPA old-hire pension plans. Until 1978, all fire and police pension plans in Colorado were administered and funded by local governments. Although the state provided some assistance, there was no statutory requirement that these plans be funded on an actuarially-sound basis. By the mid-1970s, it became apparent that many of these local plans were underfunded.

A 1977 study by the General Assembly concluded that these plans had an unfunded liability in excess of \$500 million. In 1978 and 1979, the General Assembly adopted legislation to reform the pension system. The purpose of the reform was to ensure that local pension plans were actuarially sound and included state financial assistance conditioned on increases in both employer and employee contributions. The state currently provides assistance to eight old-hire plans under the management of the FPPA. Since 1980, the state has contributed more than \$500 million to 110 local police and fire agencies.

The remaining estimated payments to the FPPA old-hire pension plan total \$186.0 million. Under state law, the next payment date is April 30, 2013, for \$10.0 million. The state could pay off its entire obligation with a lump sum payment of \$142.0 million on April 30, 2013. Table 1 shows the remaining payments due under current law for old-hire plans.

Payment Date**	Funding Currently In Statute* (in millions)
April 30, 2013	\$10.0
April 30, 2014	\$25.3
April 30, 2015	\$25.3
April 30, 2016	\$25.3
April 30, 2017	\$25.3
April 30, 2018	\$25.3
April 30, 2019	\$49.4

Source: Fire and Police Pension Association of Colorado.

*Assumes that lost interest is made up in the final payment in 2019.

**The final payment in 2019 is an estimate. Actual experience, including investment returns over this period, will determine the final payment amounts and termination date.

FPPA Limitation on Liability

The chief executive officer and legal counsel of the FPPA discussed issues relating to local governments with employees that claim benefits but have not paid FPPA premiums because the local government did not have their members enrolled in FPPA plans. Individual police officers and firefighters may believe they are entitled to benefits due to state statutes that require local government police and fire agencies to provide benefits through FPPA. However, a number of these local agencies elect not to enroll their employees in FPPA, and, in some cases, FPPA statutes become applicable to a local agency without the local agency being specifically aware of this occurrence (e.g., following a transition from all-volunteer to career firefighting personnel). The commission discussed the issue of liability for benefit claims from police officers or firefighters when their employer has not enrolled potential members in FPPA plans. FPPA executives noted that, while FPPA is not currently liable for such claims, enforcement action against local agencies that violate enrollment statutes is not a contemplated use of FPPA trust funds and no resources currently exist to take enforcement action.

Commission recommendation. As a result of this discussion, the commission recommends Bill A. Bill A clarifies that FPPA has no obligation related to fire and police employers that fail to enroll employees in FPPA plans.

Summary of Recommendations

As a result of the commission's activities, one bill was recommended to the Legislative Council for consideration during the 2013 legislative session.

Bill A — FPPA Limitation On Liability

Bill A amends existing statutes related to FPPA's statewide defined benefit (pension) plan and the statewide death and disability plan. The bill provides that FPPA is not liable for or obligated to pay a benefit when a local government fails to enroll its employees as members of FPPA.



Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<http://www.colorado.gov/lcs/FPPA>

Meeting Date and Topics Discussed

September 19, 2012

- ◆ Fire and Police Pension Association Update
- ◆ Recent Investment Performance
- ◆ Actuarial Study Findings
- ◆ Payments to the FPPA Old-Hire Pension Plans
- ◆ FPPA Liability Limits

Resource Materials

On June 25, 2012, the association's **Comprehensive Annual Financial Report** was released for the calendar year ending December 31, 2011. This report can also be found at: http://www.fppaco.org/toc_frames.html.



First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

BILL A

LLS NO. 13-0093.01 Nicole Myers x4326

SENATE BILL

SENATE SPONSORSHIP

Tochtrop, King, Morse

HOUSE SPONSORSHIP

Ramirez, Barker, Duran, Labuda, Peniston, Waller

Senate Committees

House Committees

A BILL FOR AN ACT

101 CONCERNING LIMITATION ON THE LIABILITY OF THE FIRE AND POLICE
102 PENSION ASSOCIATION IF AN EMPLOYER FAILS TO PROPERLY
103 ENROLL AN EMPLOYEE IN A PLAN.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Police Officers' and Firefighters' Pension Reform Commission.

Any municipality that offers police or fire protection services and any special district, fire authority, or county improvement district that offers fire protection services (employer) is currently required to provide

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

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pension benefits through the fire and police pension association's (FPPA) statewide defined benefit plan to its full-time employees and some part-time employees whose duties are directly involved with the provision of police or fire protection (member). In addition, members are currently eligible for the benefits provided by the FPPA's statewide death and disability plan.

The bill states that if an employer that is otherwise required to enroll its members under the statewide defined benefit plan or the statewide death and disability plan fails to properly enroll a member, neither the fire and police pension association nor the defined benefit system trust fund or death and disability trust fund, as applicable, is obligated or liable for any purpose to any person or employer arising from such failure.

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

2 **SECTION 1.** In Colorado Revised Statutes, 31-31-401, **add** (6)
3 as follows:

4 **31-31-401. Applicability of plan.** (6) IF AN EMPLOYER THAT IS
5 OTHERWISE REQUIRED TO ENROLL ITS MEMBERS UNDER THE PLAN FAILS
6 TO PROPERLY ENROLL SUCH MEMBERS, NEITHER THE FIRE AND POLICE
7 PENSION ASSOCIATION NOR THE DEFINED BENEFIT SYSTEM TRUST FUND IS
8 OBLIGATED OR LIABLE FOR ANY PURPOSE TO ANY PERSON OR EMPLOYER
9 ARISING FROM SUCH FAILURE.

10 **SECTION 2.** In Colorado Revised Statutes, 31-31-802, **add** (3)
11 as follows:

12 **31-31-802. Coverage.** (3) IF AN EMPLOYER THAT IS OTHERWISE
13 REQUIRED TO ENROLL ITS MEMBERS UNDER THE PLAN FAILS TO PROPERLY
14 ENROLL SUCH MEMBERS, NEITHER THE FIRE AND POLICE PENSION
15 ASSOCIATION NOR THE DEATH AND DISABILITY TRUST FUND IS OBLIGATED
16 OR LIABLE FOR ANY PURPOSE TO ANY PERSON OR EMPLOYER ARISING
17 FROM SUCH FAILURE.

18 **SECTION 3. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly
3 (August 7, 2013, if adjournment sine die is on May 8, 2013); except that,
4 if a referendum petition is filed pursuant to section 1 (3) of article V of
5 the state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2014 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.